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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 12-12020-mg

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In the Matter of:

RESIDENTIAL CAPITAL, LLC, et al.,

Debtors.

- - - - -x

United States Bankruptcy Court

One Bowling Green

New York, New York

June 18, 2014

10:04 AM

B E F O R E:

HON. MARTIN GLENN

U.S. BANKRUPTCY JUDGE

1
2 (CC: Doc. no. 6536) Third Interim and Final Application of
3 Ernst & Young LLP for Allowance and Payment of Compensation for
4 Professional Services and Reimbursement of Actual and Necessary
5 Expenses for Ernst & Young LLP, Other Professional.

6
7 (CC: Doc. no. 6512) Final Application of Bryan Cave LLP as
8 Ordinary Course Counsel for the Debtors for Compensation and
9 Reimbursement of Expenses Incurred for the Period May 1, 2013
10 through June 30, 2013 for Bryan Cave LLP, Other Professional.

11
12 (CC: Doc. no. 6537) Final Application of Bradley Arant Boulton
13 Cummings LLP as Special Litigation and Compliance Counsel for
14 the Debtors, for Compensation and Reimbursement of Expenses
15 Incurred for the Period May 14, 2012 Through and Including
16 December 17, 2013 for Bradley Arant Boulton Cummings LLP, Special
17 Counsel.

18
19 (CC: Doc. no. 6531) Final Fee Application of Deloitte & Touche
20 LLP for Compensation for Services Rendered and Reimbursement of
21 Expenses as Independent Auditor and Attest Service Provider to
22 the Debtors for the Period from May 14, 2012 through August 31,
23 2013 for Deloitte & Touche LLP, Auditor.

1
2 (CC: Doc. no. 6528) Fourth and Final Fee Application of Towers
3 Watson Delaware Inc. as Human Resources Consultant for the
4 Debtors for Compensation and Reimbursement of Expenses Incurred
5 for the Period June 25, 2012 through April 30, 2013 for Towers
6 Watson Delaware Inc., Consultant.

7
8 (CC: Doc. No. 6542) Fifth Interim and Final Fee Application of
9 KPMG LLP, as Tax Compliance Professionals and Information
10 Technology Advisors to the Debtors and Debtors in Possession,
11 for Interim Allowance of Compensation and Reimbursement of
12 Actual and Necessary Expenses Incurred from September 1, 2013
13 through December 17, 2013 and for Final Allowance of
14 Compensation for Professional Services Rendered and
15 Reimbursement of Actual and Necessary Expenses Incurred from
16 May 14, 2012 through December 17, 2013 for KPMG LLP, Other
17 Professional.

18
19 (CC: Doc. no. 6541) Final Fee Application of Prince Lobel Tye
20 LLP for an Award of Compensation and Reimbursement of Expenses
21 for Services Rendered as an Ordinary Course Professional for
22 the Debtors for the Period of May 14, 2012 through December 17,
23 2013 for Prince Lobel Tye LLP, Other Professional.

1
2 (CC: Doc. no. 6539) Fifth Interim and Final Fee Application of
3 Dorsey & Whitney LLP as Special Securitization and
4 Investigatory Counsel for the Debtors for Compensation and
5 Reimbursement of Expenses Incurred for the Period from May 14,
6 2012 through December 17, 2013 for Dorsey and Whitney LLP,
7 Special Counsel.

8
9 (CC: Doc. no. 6543) Fifth and Final Application of Carpenter
10 Lipps & Leland LLP as Special Litigation Counsel for the
11 Debtors for Compensation and Reimbursement of Expenses Incurred
12 for the Interim Period of September 1, 2013 Through December
13 17, 2013 and the Final Period of May 14, 2012 Through December
14 17, 2013 for Carpenter Lipps & Leland LLP, Special Counsel.

15
16 (CC: Doc. no. 6549) Second and Final Fee Application of
17 Kurtzman Carson Consultants, LLC as Administrative Agent for
18 the Debtors for Allowance of Compensation for Professional
19 Services Rendered and for Reimbursement of Actual and Necessary
20 Expenses Incurred from May 14, 2012 through December 17, 2013
21 for Kurtzman Carson Consultants LLC, Other Professional.

1
2 (CC: Doc. no. 6550, 6972) Fifth Interim Fee Application and
3 Final Fee Application of Orrick, Herrington & Sutcliffe LLP, as
4 Special Securitization Transactional and Litigation Counsel for
5 the Debtors, for Allowance of Compensation for Professional
6 Services Rendered and For Reimbursement of Actual and Necessary
7 Expenses Incurred from May 14, 2012 through December 17, 2013
8 for Orrick, Herrington & Sutcliffe LLP, Special Counsel.

9
10 (CC: Doc. no. 6552) Third and Final Application of Perkins Coie
11 LLP as Special Insurance Coverage Counsel to the Debtors for
12 Compensation and Reimbursement of Expenses Incurred for Perkins
13 Coie LLP, Special Counsel.

14
15 (CC: Doc. no. 6553) Application for Final Professional
16 Compensation for Locke Lord LLP, Special Counsel.

17
18 (CC: Doc. no. 6555) Final Application of Morrison Cohen LLP for
19 Allowance of Compensation for Professional Services Rendered
20 and Expenses Incurred During the Period from May 14, 2012
21 through December 16, 2013 for Morrison Cohen LLP, Other
22 Professional.

1
2 (CC: Doc. no. 6556) Final Fee Application of Tilghman & Co.,
3 P.C. as Noticing Agent to Debtor in Connection with the Kessler
4 Settlement Agreement, for Allowance of Compensation for the
5 Period May 14, 2012 through December 17, 2013 for Tilghman &
6 Co., P.C., Other Professional.

7
8 (CC: Doc. no. 6559) Fourth and Final Application of
9 SilvermanAcampora LLP, Special Counsel to Official Committee of
10 Unsecured Creditors, for Allowance of Compensation for
11 Professional Services Rendered and for Reimbursement of Actual
12 and Necessary Incurred from September 1, 2013 through December
13 16, 2013 for SilvermanAcampora LLP, Special Counsel.

14
15 (CC: Doc. no. 5844) Final Fee Application of Leonard, Street
16 and Deinard Professional Association for Allowance of
17 Compensation for Services Rendered and Reimbursement of
18 Expenses Incurred as Special Minnesota Counsel for the Examiner
19 for Leonard, Street and Deinard Professional Association, Other
20 Professional.

1
2 (CC: Doc. No. 5846) Final Fee Application of Wolf Haldenstein
3 Adler Freeman & Herz LLP, Conflicts Counsel to the Examiner,
4 for Allowance of Compensation and Reimbursement of Expenses for
5 the Period from October 15, 2012 Through and Including April
6 30, 2013.

7
8 (CC: Doc. no. 5819) Third Interim and Final Application of
9 Pepper Hamilton LLP as Special Foreclosure Review Counsel for
10 Bankruptcy Issues for the Debtors for Compensation and
11 Reimbursement of Expenses Incurred for the Period May 15, 2012
12 through October 31, 2013.

13
14 (CC: Doc. no. 5850) Final Application of Arthur J. Gonzalez, as
15 Chapter 11 Examiner, for Allowance of Compensation and
16 Reimbursement of Expenses.

17
18 (CC: Doc. No. 5980) Third Interim and Final Application of
19 Hudson Cook, LLP as Special Counsel to the Debtors for
20 Compensation and Reimbursement of Expenses Incurred for the
21 Period May 15, 2012 through June 30, 2013.

1
2 (CC: Doc. no. 6560) Final Application for Final Professional
3 Compensation for an Award of Compensation and Reimbursement of
4 Expenses for Services Rendered as an Ordinary Course
5 Professional for the Debtors for the Period of May 14, 2012
6 through December 17, 2013 for Troutman Sanders LLP, Other
7 Professional.

8
9 CC: Doc. no. 6561) Fifth and Final Application of Severson &
10 Werson and for Donald H. Cram, Special Counsel.

11
12 (CC: Doc. no. 6567) Fifth Interim and Final Fee Application of
13 Morrison & Foerster LLP as Bankruptcy Counsel for the Debtors
14 for Allowance of Compensation for Professional Services
15 Rendered and for Reimbursement of Actual and Necessary Expenses
16 Incurred from May 14, 2012 through December 17, 2013 for
17 Morrison & Foerster LLP, Debtor's Attorney.

18
19 (CC: Doc. no. 6573) Fifth Interim and Final Application of
20 Centerview Partners LLC as Investment Banker for the Debtors
21 for Compensation and Reimbursement of Expenses Incurred for the
22 Period May 14, 2012 through December 17, 2013 for Centerview
23 Partners LLC.

1
2 (CC: Doc. no. 6565) Fourth and Final Fee Application of
3 Pachulski Stang Ziehl & Jones LLP for Compensation for Services
4 Rendered and Reimbursement of Expenses as Co-Counsel for the
5 Official Committee of Unsecured Creditors for the (I) Fourth
6 Interim Compensation Period of September 1, 2013 Through
7 December 17, 2013 and (II) Final Compensation Period From
8 September 19, 2012 Through December 17, 2013 for Pachulski
9 Stang Ziehl & Jones LLP, Creditor Comm. Atty.

10
11 (CC: Doc. no. 6571) Fifth Interim and Final Application of
12 Mercer (US) Inc. as Compensation Consultant to the Debtors for
13 the Interim Period from September 1, 2013 through December 17,
14 2013 and for the Final Period of May 14, 2012 through December
15 17, 2013 for Mercer (US) Inc., Other Professional.

16
17 (CC: Doc# 6562) First and Final Application for Professional
18 Compensation of Weir & Partners LLP.

19
20 (CC: Doc. no. 6577) Amended Final Application of Chadbourne &
21 Parke LLP, Counsel to the Examiner, for Allowance of
22 Compensation and Reimbursement of Expenses for Chadbourne &
23 Parke LLP, Other Professional.

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(CC: Doc. no. 6696, CC: 6570, 7002) Fifth and Final Fee
Application of Fortace LLC as Consultant for the Debtors for
Compensation and Reimbursement of Expenses Incurred from July
6, 2012 through December 17, 2013 for Fortace LLC, Consultant.

(CC: Doc. no. 6569) Application for Final Professional
Compensation (First and Final) for Carter Ledyard & Milburn
LLP, Consultant.

(CC: Doc. No. 6578) Fifth and Final Fee Application of Mesirow
Financial Consulting, LLC For Compensation and Reimbursement of
Expenses as Financial Advisor to the Examiner for the Period
July 24, 2012 through December 17, 2013 for Mesirow Financial
Consulting, LLC, Other Professional.

(CC: Doc. no. 6579) Final Application of Rubenstein Associates,
Inc. as Corporate Communications Consultant for the Debtors for
Compensation and Reimbursement of Expenses Incurred for the
Period May 14, 2012 through April 30, 2013 for Rubenstein
Associates, Inc., Consultant.

1
2 (CC: Doc# 6580) Compensation /Fifth and Final Fee Application
3 of AlixPartners, LLP, Financial Advisor to the Official
4 Committee of Unsecured Creditors, for Compensation and
5 Reimbursement of Expenses Incurred During the Fifth Interim
6 Compensation Period of September 1, 2013 Through December 17,
7 2013 and for the Total Compensation Period of May 21, 2012
8 Through December 17, 2013 for AlixPartners, LLP, Other
9 Professional, period: 5/21/2012 to 12/17/2013,
10 fee:\$14718273.53, expenses: \$103,325.70.

11
12 (CC: Doc# 6587) Final Application of J F. Morrow, Consultant to
13 the Official Committee of Unsecured Creditors, for Final
14 Allowance of Compensation for Professional Services Rendered
15 and for Reimbursement of Actual and Necessary Expenses Incurred
16 During the Total Compensation Period of September 5, 2012
17 Through August 31, 2013 for J F. Morrow, Consultant, period:
18 9/5/2012 to 8/31/2013, fee:\$250,060.00, expenses: \$1,345.61.

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2 (CC: Doc# 6586) Fourth and Final Application of Coherent
3 Economics, LLC, as Consultant to the Official Committee of
4 Unsecured Creditors for Final Allowance of Compensation for
5 Professional Services Rendered and for Reimbursement of Actual
6 and Necessary Expenses Incurred During (I) the Fourth Interim
7 Compensation Period of September 1, 2013 Through December 17,
8 2013 and (II) the Total Compensation Period of August 11, 2012
9 Through December 17, 2013 for Coherent Economics LLC,
10 Consultant, period: 8/11/2012 to 12/17/2013, fee:\$1135367.52,
11 expenses: \$15,194.52.

12
13 (CC: Doc# 6585) First and Final Application of Quest Turnaround
14 Advisors, LLC, Consultant to the Official Committee of
15 Unsecured Creditors, for Final Allowance of Compensation for
16 Professional Services Rendered and for Reimbursement of Actual
17 and Necessary Expenses Incurred From September 16, 2013 Through
18 December 17, 2013 for Quest Turnaround Advisors, LLC,
19 Consultant, period: 9/16/2013 to 12/17/2013, fee:\$345,646.12,
20 expenses: \$17,614.09.

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(CC: Doc# 6581) Final Fee Application of Analytic Focus, LLC,
Consultant to the Official Committee of Unsecured Creditors,
for Allowance of Compensation for Professional Services
Rendered and for Reimbursement of Actual and Necessary Expenses
From August 28, 2012 Through December 17, 2013 for Analytic
Focus, LLC, Consultant, period: 8/28/2012 to 12/17/2013,
fee:\$592,840.25, expenses: \$355.29.

(CC: Doc# 6584) Third Interim and Final Fee Application of
Wilmer Cutler Pickering Hale and Dorr LLP, as Special Counsel
for Certain Regulatory Matters to the Official Committee of
Unsecured Creditors of Residential Capital, LLC, et al. for
Interim Allowance of Compensation and for the Reimbursement of
Expenses for Services Rendered During the Period From December
12, 2012 Through December 17, 2013 for Wilmer Cutler Pickering
Hale and Dorr LLP, Special Counsel, period: 12/12/2012 to
12/17/2013, fee:\$831,751.50, expenses: \$3,713.58.

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(CC: Doc# 6583) Fifth Interim and Final Application of Moelis & Company LLC for Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred as Investment Banker to the Official Committee of Unsecured Creditors for the Period From May 16, 2012 Through December 17, 2013 for Moelis & Company LLC, Other Professional, period: 5/16/2012 to 12/17/2013, fee:\$14616129.03, expenses: \$250,527.01.

(CC: Doc# 6582) Fourth Interim and Final Application of Epiq Bankruptcy Solutions, LLC, as Information Agent for the Official Committee of Unsecured Creditors, for Allowance and Payment of Compensation for Professional Services Rendered and for Reimbursement of Actual and Necessary Expenses Incurred for the Interim Period From September 1, 2013 Through December 17, 2013 and the Final Period From May 22, 2012 Through December 17, 2013 for Epiq Bankruptcy Solutions, LLC (Claims and Noticing Agent), Other Professional, period: 5/22/2012 to 12/17/2013, fee:\$186,302.06, expenses: \$255,878.82.

(CC: Doc. no. 6590) Final Fee Application of San Marino Business Partners LLC As Consultant to the Official Committee of Unsecured Creditors For Compensation and Reimbursement of Expenses Incurred For The Period August 11,2012 Through December 17,2013 for San Marino Business Partners LLC, Consultant.

(CC: Doc. no. 6588, PTBS: Doc. no. 7035) Fifth Interim and Final Application of Curtis, Mallet-Prevost, Colt & Mosle LLP, as Conflicts Counsel to the Debtors and Debtors in Possession, for Allowance and Payment of Compensation for Professional Services Rendered and for Reimbursement of Actual and Necessary Expenses Incurred from May 14, 2012 Through and Including December 17, 2013 for Curtis, Mallet-Prevost, Colt & Mosle LLP, Debtor's Attorney.

(CC: Doc. no. 6591, 6632) Fifth Interim and Final Application of FTI Consulting, Inc., as Financial Advisor for the Debtors.

1
2 (CC Doc. no. 6589) Fifth and Final Application of Kramer Levin
3 Naftalis & Frankel LLP, Counsel for the Official Committee of
4 Unsecured Creditors, for Final Allowance of Compensation for
5 Professional Services Rendered and for Reimbursement of Actual
6 and Necessary Expenses Incurred During (I) The Fifth Interim
7 Compensation Period of September 1, 2013 Through December 17,
8 2013 And (II) The Total Compensation Period of May 16, 2012
9 Through December 17, 2013 for Kramer Levin Naftalis & Frankel
10 LLP, Creditor Comm. Atty.

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BY: BRIAN S. MASUMOTO, ESQ.

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ARTHUR J. GONZALEZ, ESQ.

Fee Examiner

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BY: ROBERT D. NOSEK, ESQ.

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250 Greenwich Street
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LISA BEBCHICK, ESQ.
PETER SIROKA, ESQ.

MORRISON COHEN LLP
Attorneys for Independent Directors of ResCap
909 Third Avenue
New York, New York 10022

BY: ROBERT K. DAKIS, ESQ.

ALSO PRESENT:

MICHAEL AGRUSA, ESQ., Towers Watson

JEFFREY LIPPS, ESQ., Carpenter Lipps & Leland LLP

STEVEN REISMAN, ESQ., Curtis, Mallet-Prevost, Colt &
Mosle, LLP

MARYANN GALLAGHER, ESQ., Curtis, Mallet-Prevost, Colt &
Mosle, LLP

ERIC LOPEZ SCHNABEL, ESQ., Dorsey & Whitney LLP

ROBERT J. FEINSTEIN, ESQ., Pachulski Stang Ziehl & Jones

MICHAEL J. RIELA, ESQ., Vedder Price

GARY APFEL, Pepper Hamilton LLP

JAY R. BENDER, Bradley Arant Soult Cummings LLP

EDWARD R. BERGSTROM, San Marino Business Partners, LLC

MICHAEL G. BIGGERS, Bryan Cave LLP

JEFFREY BRODSKY, Quest Turnaround Advisors

DANA CLARKE, Hudson Cook, LLP

ADRIAN COWAN, Analytic Focus

DONALD H. CRAM, Severson & Werson, APC

MINIARD CULPEPPER, Prince Lobel Tye, LLP

BRYAN DLUHY, Freeborn & Peters LLP

DEVON J. EGGERT, Freeborn & Peters LLP

DEBRA FELDER, Orrick, Herrington & Sutcliffe LLP

DRAKE D. FOSTER, Kurtzman Carson Consultants

ALAN FRANKEL, Coherent Economics

1 CHRISTIAN HANCOCK, Bradley Arant Soult Cummings LLP
2 ELIZABETH HULSEBOS, Dorsey & Whitney LLP
3 ARNO I. IZUAGLE, Arno I. Izuagle (Pro per)
4 BRIAN KELLY, AlixPartners, LLC
5 MATTHEW D. LEE, Foley & Lardner, LLP
6 JASON MANNING, Troutman Sanders, LLP
7 J.F. MORROW, J.F. Morrow (Pro per)
8 CHETAN NAIR, KPMG LLP
9 FRANK SILLMAN, Fortace, LLC
10 STEVE TILGHMAN, Tilghman & Company
11 TODD WUERTZ, Epiq Bankruptcy Solutions, LLC
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1 P R O C E E D I N G S

2 THE COURT: All right, please be seated.

3 We're here in Residential Capital, number 12-12020.

4 Mr. Marinuzzi?

5 MR. MARINUZZI: Good morning, Your Honor. For the
6 record, Lorenzo Marinuzzi, Morrison & Foerster on behalf of the
7 reorganized debtors.

8 Your Honor, we're here today on the final fee and
9 expense requests of the estate professionals. By my count, and
10 by the agenda, there are forty-five applications that are up
11 for final approval, all but four of which are unresolved (sic)
12 and currently unopposed. The four that have some degree of
13 objection are the applications filed by Morrison & Cohen,
14 special counsel to the board; Carter Ledyard, committee special
15 counsel; and the financial advisor and attorneys for the
16 examiner, Mesirow and Chadbourne & Parke.

17 I'd like to, if I may, Your Honor, walk through the
18 resolution tracking chart, as we've done the prior four times
19 I've been up here. And I have extra copies in case Your Honor
20 needs them.

21 THE COURT: I have it. And I have it marked. So let
22 me just make sure I find it.

23 Okay, go ahead, Mr. Marinuzzi.

24 MR. MARINUZZI: Your Honor, I'd like to proceed with
25 the ones that are unopposed, and leave till the end of the

1 hearing those that have some degree of objection, so people in
2 the courtroom and on the phone could go about their business.

3 THE COURT: Yeah. And when you go through this, there
4 are four professional applications which are among those listed
5 as unopposed, as to which I have issues that are going to have
6 to be discussed. I think because of the large number of
7 applications and the volume of materials that were generated, I
8 think on most of them, I'm satisfied where there's no
9 objection, and I believe that the U.S. Trustee has worked out
10 resolutions on many of those, some it had no objections to at
11 all, we'll be able to go through these pretty quickly. Okay?

12 Go ahead, Mr. Marinuzzi.

13 MR. MARINUZZI: Very well, Your Honor.

14 Your Honor, I'm just going to read the final requested
15 fees and expenses, and not the fifth or third interim,
16 depending upon how many people are up to.

17 So the first firm if Bradley, Arant, Boult Cummings,
18 and it's docket number 6537, requesting total fees of
19 \$11,959,869.89 and expenses of \$613,918.47. In order to
20 resolve the informal objection of the U.S. Trustee, Bradley
21 Arent has agreed to reduce their final fee request to
22 \$11,456,954.36 and expenses to \$613,321.35.

23 THE COURT: 25 or 35?

24 MR. MARINUZZI: I have 35 on my chart.

25 THE COURT: Yeah, I'm sorry. I misheard you.

1 MR. MARINUZZI: I notice that my eyes have gotten
2 worse since the last time I --

3 THE COURT: No, I probably -- my years have gotten
4 worse, so I misheard you.

5 MR. MARINUZZI: Oh, okay.

6 THE COURT: Go ahead.

7 MR. MARINUZZI: Next, Your Honor, Bryan Cave
8 requesting final fees of \$279,187.50, \$116.60 in expenses. No
9 objection to this final application.

10 THE COURT: Go ahead.

11 MR. MARINUZZI: Your Honor, next is Carpenter Lipps &
12 Leland.

13 THE COURT: Let me just say, as Mr. Marinuzzi is going
14 through these -- we're just going to go through them, but I
15 just -- if someone -- he's identifying these as ones without an
16 objection. If there's someone present in court or on the phone
17 who intends to object to them, please just indicate that you
18 have an objection. We won't get into the substance of it, but
19 I just want to know whether, indeed, these are ones without
20 objection.

21 Go ahead.

22 MR. MARINUZZI: Your Honor, I believe I left off with
23 Carpenter Lipps & Leland, docket number 6543, requesting final
24 fees of \$6,163,315 and final approval of expense reimbursement
25 in the amount of \$2,609,058.89. No objections were filed to

1 the Carpenter Lipps final fee application.

2 THE COURT: Go ahead.

3 MR. MARINUZZI: Next, Your Honor, is Centerview
4 Partners, docket number 6573, seeking total fees of 5.7 million
5 dollars, plus 3.8 million dollars in the form of an in-court
6 transaction fee, final expenses of \$68,853.16. There was no
7 objection to the requested fees. And to resolve the informal
8 response of the United States Trustee's Office, Centerview has
9 reduced their final fee request to \$67,336 --

10 THE COURT: Final expense request.

11 MR. MARINUZZI: I'm sorry?

12 THE COURT: Final expense request.

13 MR. MARINUZZI: Final expense request, I'm sorry, Your
14 Honor.

15 THE COURT: I think you said "fee".

16 MR. MARINUZZI: I apologize. To \$67,336.36.

17 THE COURT: Okay.

18 MR. MARINUZZI: Next, Your Honor, is Curtis, Mallet-
19 Prevost, Colt & Mosle, docket number 6588, requesting final
20 fees of \$9,957,770.80 and expenses of \$30,505.36. To resolve
21 the informal response of the United States Trustee, they've
22 reduced their fee request to \$9,847,770.80 and there was no
23 objection to the expense request.

24 THE COURT: Okay.

25 MR. MARINUZZI: Next, Your Honor, is Deloitte &

1 Touche, docket number 6531, requesting final fees in the amount
2 of \$5,497,620.65. No expenses, Your Honor, requested, and no
3 objection to the application.

4 THE COURT: Go ahead.

5 MR. MARINUZZI: Next, Your Honor, is the application
6 of Dorsey & Whitney, docket number 6539, requesting fees in the
7 amount of \$812,063.65 and expenses of \$5,480.03. No objection
8 to the final application.

9 THE COURT: Go ahead.

10 MR. MARINUZZI: Next, Your Honor, Ernst & Young,
11 docket number 6536, requesting final fees of \$1,886,517.75 and
12 expenses of \$43,285.29. Ernst & Young reduced their fees and
13 expenses to accommodate the U.S. Trustee's concerns and are
14 seeking final approval of \$1,884,808.75 and expenses of
15 \$43,230.48. No objection other than the U.S. Trustee's.

16 THE COURT: Yes, go ahead.

17 MR. MARINUZZI: Your Honor, next is Fortace LLC,
18 docket number 6696 requesting final fees of \$2,222,459.50 and
19 expenses of \$659,745.97. No objection.

20 Next, Your Honor, is FTI Consulting, docket number
21 6591, seeking final fees in the amount of \$32,491,560.75 and
22 final expenses of \$920,158.65. In order to resolve the U.S.
23 Trustee's objection, the fee request has been reduced to 32
24 thousand --

25 THE COURT: 32 million.

1 MR. MARINUZZI: I'm sorry, \$32,365,687.27 and the
2 expense amount -- and there's an error in the chart, Your
3 Honor -- is \$908,878.38 -- not 43 cents, 38 cents.

4 THE COURT: Okay.

5 MR. MARINUZZI: Next, Your Honor, is --

6 THE COURT: Hang on, Mr. Marinuzzi.

7 MR. MARINUZZI: I'm sorry.

8 UNIDENTIFIED SPEAKER: Your Honor, may I have a moment
9 with Mr. Marinuzzi?

10 THE COURT: Yes.

11 MR. MARINUZZI: Your Honor, I have an updated number
12 from FTI. I apologize. The final amount of fees is
13 \$32,364,884.11 and the expenses -- the chart is correct -- it's
14 \$908,878.43.

15 THE COURT: Okay.

16 MR. MARINUZZI: I'm sorry, Your Honor.

17 That brings us to Hudson Cook, docket number 5980,
18 seeking total fees in the amount of \$2,284,737.50, and expenses
19 of \$30,550.67. The objection by the U.S. Trustee was
20 withdrawn.

21 THE COURT: Go ahead.

22 MR. MARINUZZI: Next, Your Honor, is KPMG, LLP, docket
23 number 6542, requesting fees in the amount of \$1,791,439.65 and
24 expenses in the amount of \$102,515.04. There was no objection
25 to the application.

1 THE COURT: All right.

2 MR. MARINUZZI: Next, Your Honor, is Kurtzman Carson
3 Consultants, docket number 6549, requesting fees for the final
4 period in the amount of \$212,440.50. No objection.

5 Next, Your Honor, is Locke Lord, docket number 6553,
6 requesting final fees in the amount of \$1,222,388.78 and final
7 approval of expenses in the amount of \$22,716.90. No
8 objections.

9 THE COURT: All right.

10 MR. MARINUZZI: Next, Your Honor, is Mercer (US) Inc.,
11 seeking final fees of \$317,003.56 and expenses of \$45,041.90.

12 THE COURT: Just bear with me one second, please.

13 (Pause)

14 THE COURT: Go ahead.

15 MR. MARINUZZI: Your Honor, Mercer has reduced their
16 fee request to \$311,434.94 and their expense request to
17 \$44,731.65, in light of the informal response from the U.S.
18 Trustee.

19 THE COURT: All right.

20 MR. MARINUZZI: Your Honor, we'll skip over Morrison &
21 Cohen, since there's an unresolved objection.

22 THE COURT: Right.

23 MR. MARINUZZI: And next is Morrison & Foerster,
24 docket number 6567 requesting final fees in the amount of
25 \$95,457,127.80 and expenses in the amount of \$3,043,012.82.

1 The final fee requests reflects a three-million-dollar write-
2 down for the benefit of the liquidating trust to resolve any
3 objections that they might have had.

4 THE COURT: Go ahead.

5 MR. MARINUZZI: Next, Your Honor, is the final
6 application of Orrick, Herrington & Sutcliffe, docket number
7 6550, seeking final fees in the amount of \$1,844,9- -- I'm
8 sorry -- \$1,844,902.19 and expenses in the amount of \$4,807.25.
9 Orrick has agreed to reduce its fee request to \$1,833,156.19
10 and its expense request to \$4,749.95.

11 THE COURT: All right.

12 MR. MARINUZZI: Next, Your Honor, is Pepper Hamilton,
13 docket number 5819, requesting approval of final fees in the
14 amount of \$5,300,886 and expenses in the amount of \$125,553.64.
15 Pepper Hamilton has agreed to reduce its fee request to
16 \$5,295,708.50 and its expense request to \$124,924.14.

17 Next, Your Honor, is Perkins Coie, docket number 6552,
18 requesting fees in the amount of \$1,469,618 and expenses in the
19 amount of \$14,725.01. They've agreed to reduce their fee
20 request to \$1,462,384.21 and their expense request to
21 \$13,985.28, to accommodate the concerns of the U.S. Trustee.

22 THE COURT: And this is one of them that I have
23 additional issues to raise.

24 MR. MARINUZZI: Would you like to raise them now, Your
25 Honor?

1 THE COURT: No.

2 MR. MARINUZZI: Okay.

3 THE COURT: Let's go on. But we're going to have to
4 come back to Perkins Coie.

5 MR. MARINUZZI: Okay. Next, Your Honor, is Prince
6 Lobel Tye, seeking final approval of fees in the amount of
7 \$222,328 and expenses in the amount of \$29,451.34, and no
8 objection was filed with respect to this application.

9 That brings us, Your Honor, to Rubenstein &
10 Associates, docket number 6579, seeking final approval of fees
11 in the amount of \$38,276 and expenses of \$9,920.93. No
12 objection was filed.

13 THE COURT: Okay.

14 MR. MARINUZZI: Next, Your Honor, is Severson &
15 Werson, docket number 6561, requesting approval on a final
16 basis of fees in the amount of \$3,321,340.39 and expenses of
17 \$297,513.49. They've agreed to reduce their expense request to
18 \$295,040.35 to accommodate the U.S. Trustee's concerns.

19 THE COURT: All right.

20 MR. MARINUZZI: Next, Your Honor, is docket number
21 6556, Tilghman & Co., requesting final fees in the amount of
22 \$11,507.50 and expenses of \$29,046.14. No objection was filed
23 with respect to this application.

24 THE COURT: All right.

25 MR. MARINUZZI: Next, Your Honor, is Towers Watson,

1 docket number 6528, requesting approval of final fees in the
2 amount of \$175,665.92 and expenses of \$9,550.01. There was no
3 objection.

4 THE COURT: All right.

5 MR. MARINUZZI: Next, Your Honor, is Troutman Sanders,
6 docket number 6560, requesting final approval of fees in the
7 amount of \$1,043,948.96 and expenses in the amount of
8 \$16,823.37. No objection.

9 THE COURT: All right.

10 MR. MARINUZZI: Your Honor, that brings us to the
11 final uncontested debtor application, that of Weir & Partners,
12 seeking approval of final fees in the amount of \$2,349 and
13 expenses of \$154.68. There was no objection.

14 THE COURT: We're going to have to come back to Weir.

15 MR. MARINUZZI: Okay.

16 Your Honor, that's it for the debtor professionals. I
17 will cede the podium to Mr. Mannal to review with the Court the
18 resolved committee professional applications.

19 THE COURT: Okay. Just give me a second before you
20 start, Mr. Mannal. Go ahead, you can go up there.

21 Thanks, Mr. Marinuzzi.

22 MR. MARINUZZI: You're welcome, Your Honor. Thank
23 you.

24 (Pause)

25 THE COURT: All right, go ahead, Mr. Mannal.

1 MR. MANNAL: Good morning, Your Honor. Doug Mannal
2 from Kramer Levin on behalf of the creditors' committee.

3 Your Honor, first, Mr. Eckstein asked that I apologize
4 for his absence today. We are currently representing another
5 debtor in front of Judge Lane, and there are depositions today
6 that required his attendance. Many of the same characters from
7 the ResCap case are in that case, and I think as Your Honor,
8 will not be surprised, that he'd much rather be here today than
9 attending those depositions.

10 Your Honor, just briefly, looking back over the course
11 of these Chapter 11 cases, Kramer Levin and the other committee
12 professionals are very proud of what we've been able to
13 achieve. Avoiding protracted, lengthy, expensive litigation
14 through a global settlement is truly one of our proudest
15 accomplishments. And we appreciate the opportunity.

16 From the start, however, committee professionals, have
17 been very mindful of the significant professional fees incurred
18 in these cases. In an effort to avoid any disputes at the
19 conclusion of these cases, many of the committee professionals
20 have agreed to make significant voluntary write-offs, both
21 during the case and as part of the final fee application.

22 Your Honor, I'm happy to walk through the chart, and
23 I'll do as good a job as Mr. Marinuzzi did, with the committee
24 professionals. Each of the committee professionals has a
25 representative in the courtroom, should the Court have any

1 questions.

2 AlixPartners, docket 6580, requests final fees of
3 \$14,718,273.53 and final expenses of \$103,325.70. There was an
4 informal objection. It was resolved by the -- informal
5 objection filed by the United States Trustee that was resolved
6 through no changes to the application.

7 THE COURT: Go ahead.

8 MR. MANNAL: We ask that be approved.

9 Analytic Focus, docket number 6581, requested final
10 fees in the amount of \$592,840.25 and final expenses of
11 \$355.29. There are no objections to that application.

12 Carter Ledyard, I think we're going to keep to the end
13 of the --

14 THE COURT: Right.

15 MR. MANNAL: -- agenda. Coherent Economics, docket
16 6586, final fees in the amount of \$1,135,367.52 and requested
17 final expenses of \$15,194.52. There were no objections to that
18 application.

19 Epiq Bankruptcy Solutions, docket number 6582, final
20 fees in the amount of \$186,302.06 and final expenses requested
21 in the amount of \$255,878.82. The U.S. Trustee filed an
22 objection -- actually, I'm sorry, an informal response was made
23 by the U.S. Trustee, and they've agreed to reduce their fee
24 request to \$184,593.16 and no change to the expenses.

25 THE COURT: All right, I have some issues with Epiq.

1 MR. MANNAL: J.F. Morrow, 6587, there were no
2 objections. The requested final fees were \$250,060 and the
3 requested expenses were \$1,345.61. There were no objections.

4 Kramer Levin, the requested fees were \$65,000,300.55.
5 That reflected approximately a five-million-dollar write-down
6 through monthly and quarterly fees. The expenses requested
7 were \$2,416,309.04. After further discussions with the
8 Liquidating Trust and the United States Trustee, Kramer Levin
9 agreed to a further reduction of its requested fees in the
10 amount of \$634,284.70, making a final fee request of
11 \$64,366,016.25, with no change to the requested expenses.

12 THE COURT: Hang on just a second. Okay.

13 MR. MANNAL: Moelis & Co., docket number 6583. There
14 was a requested final fees of \$14,616,129 -- excuse me --
15 \$14,616,129.03. The requested expenses for that -- for the
16 final fee period is \$250,527.01. There were no objections to
17 the final fees. However, they agreed to reduce their expenses
18 and are now requesting final expenses in the amount of
19 \$249,664.42.

20 THE COURT: Okay.

21 MR. MANNAL: Pachulski Stang, docket number 6565,
22 requesting final fees in the amount of \$4,844,469.07, final
23 expenses in the amount of \$94,832.44. Pachulski has agreed to
24 make further reductions in their fee request, making a final
25 fee request of \$4,843,989.47 and agreed to reduce their

1 expenses in the amount of a final expense request of
2 \$87,794.29.

3 THE COURT: All right.

4 MR. MANNAL: Quest Turnaround Advisors, docket number
5 6585, requested final fees in the amount of \$345,646.12 and
6 requested final expenses of \$17,614.09. There were no
7 objections to that application, Your Honor.

8 THE COURT: All right.

9 MR. MANNAL: San Marino Business Partners, docket
10 number 6590, in the amount -- fees in the amount of \$236,157.38
11 and requested expenses of \$11,404.30. There were no
12 objections.

13 SilvermanAcampora, docket number 6559, requested final
14 fees in the amount of \$1,160,460.25 and requested expenses for
15 the final period of \$15,099.70. There were no objections.

16 THE COURT: All right I have a couple -- one or two
17 issues to raise on that.

18 MR. MANNAL: And the last unopposed committee
19 professional is Wilmer Cutler, docket number 6584, requested
20 final fees in the amount of \$831,751.50 and expenses for the
21 final period of \$3,713.58. Wilmer Cutler has agreed to reduce
22 their fee request to \$828,680.50 and there were no objections
23 to that revised number.

24 THE COURT: And I have issues to raise.

25 MR. MANNAL: Okay.

1 THE COURT: Thank you.

2 MR. MANNAL: Thank you, Your Honor.

3 THE COURT: Mr. Seife?

4 MR. SEIFE: Good morning, Your Honor. Howard Seife,
5 Chadbourne & Parke, counsel for the examiner. There is an
6 objection outstanding to Chadbourne & Parke, so we'll defer
7 that.

8 There is no objection to the fee request of Arthur
9 Gonzalez as examiner. He has asked to defer consideration of
10 his application until you've heard the applications of his
11 counsel and his financial advisor, for which there are pending
12 objections.

13 THE COURT: Okay. But the amount being sought is
14 \$568,612.50, correct?

15 MR. SEIFE: That is correct. With no objection.

16 THE COURT: Right. And no expenses?

17 MR. SEIFE: That's correct, Your Honor.

18 THE COURT: All right.

19 MR. SEIFE: The next professional of the examiner is
20 Leonard, Street and Deinard. They are seeking fees of
21 \$100,000; requested expenses of \$4,210. There was no
22 objection.

23 Mesirow, as I said, there is an objection, and that'll
24 be taken up later.

25 Wolf Haldenstein Adler Freeman & Herz, requested fees

1 are \$82,997 --

2 THE COURT: Why don't you try just to repeat the --

3 MR. SEIFE: -- 82 thousand --

4 THE COURT: -- say it again. Go ahead.

5 MR. SEIFE: \$82,997.85.

6 THE COURT: Okay.

7 MR. SEIFE: Expenses of \$1,670.56.

8 THE COURT: Okay.

9 MR. SEIFE: And there's no objection.

10 THE COURT: All right. What I'd like to hear from
11 next, Mr. Marinuzzi, is from Mr. Masumoto regarding what the
12 U.S. Trustee did with respect to, I guess it's what, the fifth
13 interim application and the final fee applications.

14 And Mr. Masumoto, if you would, because I think this
15 is going to come up with respect to the Liquidation Trust's
16 objections, if you could describe generally what the U.S.
17 Trustee did with respect to the first four interim
18 applications, and not to go through on the precise dollar
19 amounts of the resolutions. Because in the first four interim
20 professional applications, the U.S. Trustee had either filed an
21 objection or informally dealt with objections to some, not all,
22 of the professionals' fees. And the Court likewise had
23 additional issues that the Court raised with respect to those
24 interim applications.

25 I'd just say, as I've repeated multiple times in

1 connection with the prior interim applications, and it's true
2 of this interim, the last interim, and the final, the Court, my
3 law clerks, and interns, have spent a great deal of time
4 reviewing fee applications. Needless to say, there's a large
5 volume of materials for today, and there has been at each of
6 the interim applications.

7 And generally, when -- I've been mindful, when the
8 U.S. Trustee has reached a resolution of its objections with
9 professionals, it has generally resulted in a bottom line or
10 lump-sum figure by which applications were reduced. And where
11 the Court felt that the proposed resolution reached by the U.S.
12 Trustee sufficiently dealt with any issues the Court might
13 have, I didn't want to -- I may have used this term -- double-
14 ding professionals by tacking on the additional reduction that
15 I felt was on an issue that I had and that the U.S. Trustee had
16 raised and had reached a resolution.

17 That becomes very much on the table today in light of
18 many, many of the Liquidating Trust's objections to
19 professional fees for the first four interim periods. I have a
20 very strong feeling, to which you'll gather I'm reacting very
21 negatively, they're trying to retrade things that were resolved
22 before. But I think it would be helpful, Mr. Masumoto, and
23 people could go back to the transcripts -- I've been generally
24 very complimentary of you and your colleagues. It's an
25 enormous task on your office to review fee applications, and in

1 this case in particular. And you've done a stellar job.

2 So but I think it would be helpful to my consideration
3 today of the final approval of the fee applications that are
4 before me and the remaining objections to fee applications that
5 I have to resolve. Go ahead, Mr. Masumoto.

6 MR. MASUMOTO: Yes, Your Honor. Good morning, Your
7 Honor. Brian Masumoto for the Office of the United States
8 Trustee.

9 Your Honor, as indicated, we reviewed the fifth
10 interim period for review at this time together with the fees
11 on a final basis, and we did focus our review primarily on the
12 fifth interim period. We did not revisit our review of the
13 prior four interim periods specifically, except for purposes of
14 context or sort of historical information.

15 With respect to this interim, because there was
16 sufficient time prior to the filing of the objection date,
17 after reviewing the fifth interim, we did contact the parties
18 prior to filing our objections. In the past, given the short
19 amount of time we had to prepare our review and objection, we
20 filed an objection with the matters unresolved. In this case,
21 we did make an effort to try to address the parties.

22 But having said that, we attempted to, in our
23 pleading, list the areas that were resolved. So if we resolved
24 a matter, say, for example, on the application preparation time
25 or transitory timekeepers, those matters that were addressed as

1 part of the overall settlement were reflected in our pleadings.
2 And to that extent -- and generally, there was a separation
3 between resolutions for fees and expenses. And that's how we
4 treated them.

5 Now, unfortunately, although from our purposes, in
6 terms of settlement, we did allocate different amounts on
7 different issues, indicating to the parties the strength we
8 felt in particular issues. That allocation, obviously, wasn't
9 necessarily agreed to by all the parties. And thus, the
10 overall settlement, leaving to the parties, their allocation
11 with respect to the expenses -- I'm sorry, with respect to the
12 objections.

13 So having said that, the pleadings that we did file,
14 although listing the areas of coverage, provide no allocation
15 as to the different topics. And there's only an overall
16 amount. And as indicated, we did not revisit any of the
17 earlier interim periods for purposes of filing.

18 During the final period, there were also additional
19 considerations that didn't apply to the earlier period, which
20 was that there were substantial reductions that were achieved
21 by some of the parties with the Liquidating Trust. And that
22 played a factor in our analysis.

23 As Your Honor may or may not know, for many of the --
24 not many, but for certain of the large applicants, our office
25 had requested electronic data. In fact -- I guess we refer to

1 it as LEDES data, which is what's also being required under the
2 new revised U.S. Trustee Guidelines. And they were very
3 helpful for our purposes of analyzing the very large fee
4 applications, particularly by Morrison & Foerster and Kramer
5 Levin.

6 So we, in utilizing those tools, we did analyze the
7 fee applications. But as I mentioned in the fifth interim,
8 given the very large reductions, that was taken into account in
9 terms of -- the objections that we would have to uncover would
10 have to exceed the voluntary reductions. And therefore, in
11 this particular instance, particularly with respect to those
12 very large applications by debtor and creditor committee
13 counsel, we determined that the voluntary reductions exceeded
14 any deficiencies that we were able to determine.

15 THE COURT: Let me just interrupt you to say that I
16 would say that, in effect, I've applied the same methodology
17 from the review by my chambers, namely that where the voluntary
18 reduction or the negotiated reduction exceeded the amounts that
19 the Court has identified as an issue, I've -- I haven't ruled
20 yet, but you'll see that I agree to the final numbers that are
21 presented for approval today without the necessity of going
22 back and revisiting line items or detailed items. And that's
23 true in the bulk of the applications, where I've satisfied
24 myself that the resolutions that were reached by your office or
25 by the Liquidating Trust, more than sufficiently account for

1 any issues that I would otherwise raise or adjustments I would
2 otherwise make.

3 So in that sense, I'm not going to go through --
4 because of the large number of applications today, I'm not
5 going to go through each of those and say, well, there was this
6 issue or that issue, but I'm satisfied. But in my own review
7 and analysis, I've done that. I've gone through and satisfied
8 myself that the specific request for the fifth interim period
9 or -- and I'll come back to the issue of final fee applications
10 in a little while -- but I've tried to take into consideration,
11 do I feel that the numbers that are being sought, subject to
12 the reductions either achieved by your office or the
13 Liquidating Trust, are reasonable and appropriate in the
14 circumstances. And I, in large measure, concluded they are.

15 Go ahead, Mr. Masumoto.

16 MR. MASUMOTO: Thank you. Your Honor, and I don't
17 have very much more to say, except, Your Honor, I believe that
18 we attempted to and did achieve resolutions with most of the
19 applicants. I believe from the U.S. Trustee's standpoint, we
20 just have one applicant with one issue that remained
21 unresolved, and we thought it was a matter for the Court to
22 adjudicate.

23 THE COURT: That's the Carter Ledyard?

24 MR. MASUMOTO: That's correct, Your Honor.

25 And with respect to the other matters that have not

1 been resolved with the Liquidating Trust, I believe that would
2 be Chadbourne and Mesirow, we did reach our own accommodations
3 with respect to those applicants with respect to the fifth
4 interim period. Because those two applicants, although
5 technically filed finals on the fourth, did have additional
6 time which they included as part of a supplemental filing. So
7 we did also review those and reached accommodations with those
8 individuals.

9 THE COURT: So to be clear, with respect to the
10 Chadbourne and Mesirow applications, for the amounts listed in
11 the chart that's before me for Chadbourne on final fees of
12 \$46,860,806.66, that reflects -- that number reflects your
13 office's resolution of any amounts of fees that Chadbourne is
14 seeking. Is that correct?

15 MR. MASUMOTO: Yes, it does, Your Honor. I believe
16 with respect to the fifth interim, they had agreed to a 30,000-
17 dollar reduction, with respect to that -- just this fifth
18 interim period.

19 THE COURT: And as to the amount of the expenses that
20 Chadbourne, is seeking --

21 MR. MASUMOTO: We had no --

22 THE COURT: -- you had no objection to that --

23 MR. MASUMOTO: That's correct, Your Honor.

24 THE COURT: -- the final figure.

25 MR. MASUMOTO: Correct.

1 THE COURT: And --

2 MR. MASUMOTO: And similarly, with respect to
3 Mesirow --

4 THE COURT: So just -- but just to get the number on
5 the table. The amount of expenses that Chadbourne is seeking,
6 as to which -- on a final basis, as to which you have no
7 objection -- it's for the final period -- \$2,995,419.47.
8 Correct?

9 MR. MASUMOTO: I believe that's correct, Your Honor.

10 THE COURT: Okay. All right. And as to Mesirow?

11 MR. MASUMOTO: As to Mesirow, they agreed, again, with
12 respect to the fifth interim period, to a reduction of 20,000
13 dollars. And we had no objection to their expenses for that
14 fifth interim period.

15 THE COURT: Okay.

16 MR. MASUMOTO: So that one, I believe, with respect to
17 their fees for the final period, it's \$39,492,705, and with
18 respect to expenses, it's 344,747.

19 THE COURT: It would be useful to me, Mr. Masumoto, if
20 you could just talk a little bit about the first four interim
21 applications with respect to the process that you and your
22 office followed in reviewing and resolving -- or proposed
23 resolutions of objections to professional fees and expenses.

24 MR. MASUMOTO: Yes, Your Honor. If I might, I did
25 prepare a little bit of a chart reflecting some of the earlier

1 fee applications. If I might approach?

2 THE COURT: Yeah, please; please.

3 MR. MASUMOTO: My apologies. There's something on the
4 reverse side.

5 THE COURT: That's okay. I print on both sides too,
6 to save paper.

7 Go ahead.

8 MR. MASUMOTO: Your Honor, the chart really sets forth
9 actually with respect to the three disputed parties, Morrison &
10 Cohen, Chadbourne, and Mesirow, the interim -- first, second,
11 third, fourth and fifth interim periods. My apologies, the
12 fifth spilled over on the last page and it's missing the
13 header. If you fold it up, you can get the header. But the
14 first two columns are the interim.

15 THE COURT: Okay.

16 MR. MASUMOTO: The next two set would be the final
17 fees, and then third set of -- well, the three remaining
18 columns are the -- reflects the resolution.

19 The final column on the right reflects the objections
20 that were raised with respect to the various interim periods.
21 So as you can see, during the first interim period, say, for
22 example, with Morrison & Cohen, we raised transitory
23 timekeeper, multiple attendee and transportation and meal
24 objections. And similarly, for each of the three
25 professionals, in that column, you will see the areas that gave

1 rise to objections, and ultimately resolutions for the parties.
2 So that's -- in terms of our review, we obviously looked at the
3 Court's guidelines, and your Court's rulings on various fees
4 and expenses, and applied them through our analysis. And we
5 did that through all of the periods.

6 Once again, I believe that for each period, we treated
7 it as a discrete period without any sort of carry-over. We did
8 raise a possible concern, because there's a lot of contention
9 with respect to the fee application preparation issue. Many
10 firms argue fluctuation in billing, and sometimes there's
11 spillover amounts in different periods. So however -- it's
12 been this Court's practice to teach each interim as a separate
13 period, and we've attempted to apply that for each interim
14 period on each of these discrete issues.

15 So again, with respect to all of the interim periods,
16 we've reviewed it under our typical criteria. And where there
17 were problems or issues, we raised them as part of our
18 objection.

19 I think we -- I believe the first interim we may have
20 attempted to try to reach informal resolutions. But generally,
21 for the succeeding interim periods, there was really
22 insufficient time between the filing of the fee applications
23 and the time to file our objections, that we didn't have time
24 to really negotiate prior to filing the objections. We did
25 negotiate generally after the objections were filed and up

1 until the hearing. We spent a considerable amount of time
2 resolving the disputes, and I believe that in many cases, prior
3 to the hearing, reached resolutions with most of the parties.

4 THE COURT: The other issue I'd be interested to know
5 whether your office has a policy with respect to it. So
6 Section 330 of the Bankruptcy Code sets forth the standard for
7 compensation of professionals. And it really -- it doesn't
8 really distinguish between interim and final. Section 331
9 deals with the interim fees. And I don't think anybody
10 disputes that where a court approves fees and expenses on an
11 interim basis, there's no absolute preclusion principle that
12 would keep a court from reviewing each of the fees and expenses
13 at a final fee hearing. There's very little case law,
14 actually, that I've found on it.

15 It's usually been in instances where a court, at a
16 final fee hearing, has revisited things that were resolved
17 earlier where a debtor is either administratively insolvent or
18 where allegations of breach of fiduciary duty or malpractice or
19 something of that nature has arisen.

20 Does your office have a policy with respect to what
21 issues regarding fees and expenses should be raised at a final
22 hearing, where fees were reviewed by the court, reviewed by
23 your office and resolved at interim hearings?

24 MR. MASUMOTO: Your Honor, I don't think we have a
25 specific or concrete rule. I do believe it's facts and

1 circumstances. I think there's a tension between the
2 requirement that the fees that are -- or the services performed
3 should be looked at in terms of reasonableness at the period
4 which they were performed.

5 THE COURT: At the time that they were performed.

6 MR. MASUMOTO: Right. And there may be circumstances
7 where that perspective may be distorted, and perhaps a final
8 review may result in a revisiting of that perspective.

9 But given the mandate that the fees should be examined
10 at the time performed, we do believe that the interim review
11 has -- should have a great deal of weight, and that it should
12 not be totally ignored for final review purposes.

13 There are circumstances in which perhaps sometimes you
14 are too close to the case or you don't see the overall picture
15 at the time that services are being performed, and that
16 particular perspective may create a certain consideration at
17 the final review. But it's not the practice to re-review in
18 exhaustive detail all of the things that were examined at the
19 interim. For example, if we had gone through a fee application
20 and noted lumping and vagueness, we wouldn't revisit that
21 review and do it all over again for the final review.

22 I believe for final purposes, sometimes there's
23 certain strategic considerations that may not have been evident
24 or considered at the time the interims were considered. And
25 those considerations may have an impact for purposes of the

1 final review. But I believe it is our practice that the review
2 we do at an interim should not, in fact, be ignored, and in
3 fact, should carry significant weight in determining at the
4 final, what should be reconsidered.

5 I do understand that there are some concerns, and I
6 think it was alluded to in Your Honor's question, because we
7 settle on a global basis, and the parties don't fix an
8 allocation among the different results, it may become different
9 when you're looking at the final review on a particular issue,
10 as to what adjustments were really attributable to that
11 particular problem.

12 I will concede that difficulty. But in my mind, that
13 should be taken into consideration, and once again, not
14 entirely ignored. But I don't have a solution, because I
15 cannot -- because there was no resolution among the parties to
16 allocate the specific reductions to specific issues.

17 THE COURT: Nor do I think there has to be.

18 MR. MASUMOTO: Yes. Nor do we, Your Honor. And that
19 is why in many cases, we're agreeable to an overall settlement.
20 But I do understand that would complicate, from the final
21 perspective, to determine what adjustments were attributable to
22 specific objections that have been raised.

23 THE COURT: All right, thank you, Mr. Masumoto.

24 MR. MASUMOTO: Thank you, Your Honor.

25 THE COURT: What I'd like to do, so that many parties

1 in the court can leave if they wish to, is to go through with
2 respect to those applications that are -- as to which there are
3 no objections and as to which I don't have a separate issue I
4 want to raise, I'll rule on those now. I don't think I need to
5 hear about -- from anybody else on those. And then anybody who
6 wants to be excused can, and then we'll go on and deal with
7 those as to which there are issues that have to be resolved.

8 So first, with respect to Bradley Arant, final fees in
9 the amount of \$11,456,954.36 and expenses of \$613,321.35 are
10 approved.

11 Is there any reason why -- I don't think I have to go
12 through the fifth interim period, if I'm approving the final
13 fees. That's -- obviously the fifth period is wrapped into
14 that.

15 UNIDENTIFIED SPEAKER: Correct.

16 THE COURT: Okay, so that's as to Bradley Arant.

17 As to Bryan Cave, final fees of \$279,187.50 and
18 expenses of \$116.60 are approved.

19 As to Carpenter Lipps, final fees of \$6,163,315 and
20 expenses of \$2,609,058.89, is approved.

21 And if I misspeak, Mr. Marinuzzi will call me on that.

22 MR. MARINUZZI: I will, Your Honor.

23 THE COURT: Centerview Partners, LLC, final fees,
24 \$5,700,000 as the fees and \$3,800,000 as the transaction fee,
25 expenses of \$67,336.36, are approved.

1 As to Curtis Mallet, fees of \$9,847,770.80 and
2 expenses of \$30,505.36, are approved.

3 As to Deloitte, fees of \$5,497,620.65 and no expenses,
4 are approved.

5 As to Dorsey Whitney, fees of \$812,063.65 and expenses
6 of \$5,480.03, are approved.

7 As to Ernst & Young, fees of \$1,884,808.75 and
8 expenses of \$43,230.48, are approved.

9 As to Fortace, LLC, fees in the amount of
10 \$2,222,459.50 and expenses of \$659,745.97, are approved.

11 As to FTI Consulting, Inc., fees of \$32,364,884.11 and
12 expenses of \$908,878.43, are approved.

13 As to Hudson Cook, fees of \$2,284,737.50 and expenses
14 of \$30,550.67, are approved.

15 As to KPMG, LLP, fees in the amount of \$1,791,439.65
16 and expenses of \$102,515.04, are approved.

17 As to Kurtzman Carson Consultants, LLC, final fees of
18 \$212,440.50 and no expenses are approved.

19 As to Locke Lord, LLP, fees of \$1,222,388.78 and
20 expenses of \$22,716.90, are approved.

21 As to Mercer (US) Inc., fees of \$311,434.94 and
22 expenses of \$44,731.65, are approved.

23 Morrison & Cohen, we're going to pass on.

24 For Morrison & Foerster, LLP, fees of \$95,457,127.80
25 and expenses of \$3,043,012.82, are approved.

1 As to Orrick, Herrington & Sutcliffe, LLP, fees in the
2 amount of \$1,833,156.19 and \$4,749.95 are approved.

3 As to Pepper Hamilton, LLP, fees of \$5,295,708.50 and
4 expenses of \$124,924.14 are approved.

5 Perkins Coie we're going to pass on for now.

6 As to Prince Lobel Tye, LLP, fees in the amount of
7 \$222,328 and expenses of \$29,451.34, are approved.

8 As to Rubenstein Associates, Inc., fees of \$38,276 and
9 expenses of \$9,920.93, are approved.

10 As to Severson & Werson, P.C., fees of \$3,321,340.39
11 and expenses of \$295,040.35, are approved.

12 For Tilghman & Co., P.C., fees of \$11,507.50 and
13 expenses of \$29,046.14, are approved.

14 As to Towers Watson Delaware, Inc., fees of
15 \$175,665.92 and expenses of \$9,550.01, are approved.

16 As to Troutman Sanders, LLP, fees of \$1,043,948.96 and
17 expenses of \$16,823.37, are approved.

18 As to Weir & Partners, we're holding that for a few
19 minutes.

20 As to AlixPartners LLP, fees in the amount of
21 \$14,708,273.53 (sic) and expenses of \$103,325.70, are approved.

22 As to Analytic Focus, LLC, fees of \$592,840.25 and
23 expenses of \$355.29, are approved.

24 Carter Ledyard, we're holding.

25 As to Coherent Economics, LLC, fees in the amount of

1 \$1,135,367.52 and expenses in the amount of \$15,194.52, are
2 approved.

3 As to Epiq Bankruptcy Solutions, we're holding on
4 that.

5 As to J.F. Morrow, fees in the amount of \$250,060 and
6 expenses of \$1,345.61, are approved.

7 As to Kramer Levin, fees in the amount of
8 \$64,366,016.25 and expenses of \$516,511.68 --

9 MR. MARINUZZI: Your Honor, you're reading from the
10 column for the interim expense request.

11 THE COURT: Okay.

12 MR. MARINUZZI: It's the one over to the right.

13 THE COURT: It's the 634,000?

14 MR. MARINUZZI: No, no, it's the 2,416,000 --

15 THE COURT: I'm sorry, okay. All right. Let me just
16 look at the chart again. All right, let me do Kramer Levin
17 again.

18 Fees in the amount of \$64,366,016.25 and expenses in
19 the amount of \$2,416,309.04, are approved.

20 As to Moelis & Co., LLC, fees in the amount of
21 \$14,616,129.03 and expenses in the amount of \$249,664.42, are
22 approved.

23 As to Pachulski Stang Ziehl & Jones, LLP, fees in the
24 amount of \$4,843,989.47 and expenses in the amount of
25 \$87,794.29, are approved.

1 Quest Turnaround Advisors, LLC, fees in the amount of
2 \$345,646.12 and expenses in the amount of \$17,614.09, are
3 approved.

4 For San Marino Business Partners, LLC, fees in the
5 amount of 236 -- excuse me, let me say that again --
6 \$263,157.38 and expenses of \$11,404.30, are approved.

7 SilvermanAcampora and Wilmer Cutler, we have to come
8 back to. Chadbourne, we're coming back to.

9 The fees of the examiner, Arthur Gonzalez, Mr. Seife
10 has asked to be held until I deal with the Chadbourne fees.
11 Then I will hold them.

12 For Leonard, Street and Deinard, Professional
13 Association, fees in the amount of \$100,000 and expenses in the
14 amount of \$4,210, are approved.

15 Mesirow, we're going to hold.

16 For Wolf Haldenstein Adler Freeman & Herz, LLP, fees
17 in the amount of \$82,997.85 and expenses of \$1,670.56, are
18 approved.

19 Does anybody wish to be heard with what I've just
20 ruled on so far?

21 MR. MARINUZZI: Your Honor, I believe there needs to
22 be a discussion had between Mr. Holtz and counsel for the
23 committee.

24 Your Honor, while they're having that discussion, on
25 behalf of all of the professionals, I would like to thank Your

1 Honor and your team. We know Your Honor and your team put a
2 tremendous amount of effort in going through these final fee
3 applications, and we really do thank you.

4 THE COURT: Well, since some of you will be leaving
5 the courtroom after this, let me say -- and I know we still
6 have the disputed matters to deal with. I've commented before,
7 this was an extremely complex and difficult case for the
8 lawyers and for the Court. As the numbers I've read into the
9 record show, it was also a very expensive case. Whenever I was
10 asked to rule on interim fees there was sticker shock to me in
11 looking at the magnitude of the fees that were being sought. I
12 take the responsibility of reviewing fee applications very
13 seriously; that's true of the interim applications and final
14 applications.

15 I think the professionals in this case have done an
16 excellent job. I think the case -- there were a lot of
17 contentious issues, there was a necessity of a number of
18 difficult trials that had to get resolved before the case was
19 able to move to confirmation.

20 I think it's -- had consensual resolutions of the
21 difficult issues been able to -- and there were many consensual
22 issues, and, certainly, the plan that moved forward was the
23 result of considerable efforts by the mediator, by the parties,
24 to reach a resolution. I certainly wish it could have happened
25 earlier, the expenses of the case would have been vastly

1 reduced, but it is what it is.

2 So I certainly commend all the professionals. I mean,
3 my compliments go to the people -- those that remain to be
4 resolved as well, they'll get resolved.

5 I mean, what are the issues that -- Mr. Mannal,
6 what's --

7 MR. MANNAL: Your Honor, I think there's some
8 confusion on the AlixPartners final fee --

9 THE COURT: Okay, let me turn to it.

10 MR. MANNAL: -- number.

11 THE COURT: Okay. I may have messed it up.

12 MR. MANNAL: I thought I heard it correct, but I --
13 it's -- I believe it's \$14,718,273.53.

14 THE COURT: That's what I thought I said, but if it
15 isn't that's what I intended to say. So it should be crystal
16 clear, the court is approving --

17 MR. MANNAL: Thank you, Your Honor.

18 THE COURT: -- AlixPartners LLP fees in the amount of
19 \$14,718,273.53, and expenses of \$103,325.70. If I misspoke
20 earlier I apologize for that. All right.

21 MR. MARINUZZI: Your Honor, with respect to Curtis,
22 Mallet, Your Honor and I were consistently wrong in the amount
23 of expenses requested. The actual amount requested is
24 \$53,990- --

25 THE COURT: Let me -- wait, wait, hang on.

1 MR. MARINUZZI: Curtis, Mallet, Your Honor.

2 THE COURT: Yeah.

3 MR. MARINUZZI: It is the first page of the chart.

4 THE COURT: Tell me, what is the expense fee?

5 MARINUZZI: The expense -- the final expense request
6 is \$53,990.94.

7 THE COURT: Let me look at my notes for a minute,
8 okay.

9 (Pause)

10 THE COURT: So, with respect to Curtis, Mallet the
11 expenses from the final period were the \$30,505.36; the
12 expenses requested in the final application is of \$53,990.94.

13 MR. MARINUZZI: Correct.

14 THE COURT: Was that right?

15 MR. MARINUZZI: That's right.

16 THE COURT: All right. So the Court -- so the record
17 is clear, the Court approves fees to Curtis, Mallet in the
18 amount of \$9,847,770.80, and expenses of \$53,990.94.

19 MR. MARINUZZI: Thank you, Your Honor.

20 THE COURT: All right. What I'd like to deal with --
21 anybody -- well, let's take a ten-minute recess. When we come
22 back what I'd like to deal with first is Perkins Coie, Weir &
23 Partners, Carter Ledyard, Epiq Bankruptcy Solutions,
24 SilvermanAcampora, and Wilmer Cutler. We'll deal with those,
25 and then we'll deal with Chadbourne, Mesirow and Arthur

1 Gonzalez. Okay.

2 MR. MARINUZZI: Thank you, Your Honor.

3 (Recess from 11:11 a.m. until 11:28 a.m.)

4 THE COURT: All right. Please be seated.

5 We're back on the record in Residential Capital,
6 12-12020.

7 Just bear with me a second.

8 Let's deal with Perkins Coie first. Somebody here
9 from Perkins Coie?

10 MS. LINDE: Yes. Yes, Your Honor. Selena Linde for
11 Perkins Coie on the conference line.

12 THE COURT: Okay. Let me find my notes specifically
13 on this.

14 All right. So as I understand it, Perkins Coie is
15 seeking final fees in the amount of \$1,462,384.21 -- this is
16 after adjustments with the U.S. Trustee -- and expenses of
17 \$13,958.28.

18 The issues are sort of anticlimactic after everything
19 we've been through. These are relatively small items, but I
20 tried to be consistent with everybody's fee applications, large
21 or small.

22 The Perkins Coie application included expenses for
23 travel to New York City and nonworking travel time to New York
24 City. The nonworking travel time was billed at fifty percent.

25 I believe I've been consistent throughout this case,

1 and in all other case -- well, this doesn't come up in that
2 many cases, but I know this has been an issue before in this
3 case. Where law firms staff -- or professional services firms
4 staff matters in ResCap with lawyers or professionals in other
5 offices, I consider their expenses and travel time to be part
6 of their overhead, and not reimbursable by the estate. It has
7 been my practice in this and other cases to compensate for
8 nonworking travel time, for example, if a lawyer is taking a
9 deposition in Chicago and travels from whatever office is their
10 principal office to Chicago for the deposition, their
11 nonworking -- obviously, they get compensated for time actually
12 spent working, but for nonworking travel time at fifty percent.

13 That guidance, which I know I've delivered before,
14 doesn't apply for traveling to New York City to staff the
15 ResCap matter. The case is pending here; I'm happy to have
16 lawyers from other offices or other places work on the matter;
17 but as I have consistently done I have not compensated either
18 for the expenses or the travel time. So that's one item. It's
19 small it's \$1,123.75.

20 MS. LINDE: No issue, Your Honor, with removing that.

21 THE COURT: Let me raise a couple of other issues, and
22 then I'll give you my --

23 MS. LINDE: Sure.

24 THE COURT: -- my ruling.

25 A recurring issue in this and other cases has been the

1 expenses in connection with preparation of fee applications. I
2 have frequently referred to the guidance I've given on the
3 issue in an opinion in Mesa Airlines, repeated in one of my
4 decisions in Borders Books. While I haven't adopted a hard
5 cap, I've said that the expenses for preparation of fee
6 applications should generally be in the range of three to five
7 percent, and the larger the fees sought, the smaller the
8 percentage should be. So the three percent probably ought to
9 be much less than three percent. And with some of the really
10 large -- and this is not Perkins Coie, it's some of the really
11 large fee applications here. And, in fact, it is less than
12 that.

13 Perkins Coie in its detailed records in the fee -- in
14 the application, attributed \$14,971.50 to "fee/employment
15 applications." But there's an additional \$2,122 that it
16 charged for appearing here in connection with their fee
17 applications. I consider that part of the fee application.

18 And when combined with what they attributed to fee
19 applications it exceeded the three to five percent range, in
20 6.7 percent, the total. Perkins Coie reached a resolution with
21 the U.S. Trustee, and they reached an agreement with U.S.
22 Trustee for a reduction in fees of \$7,233.79.

23 In addition to that agreed reduction, I'm going to
24 reduce the Perkins Coie application by an additional \$3,802.31
25 to account for the travel and nonworking travel time items that

1 I identified. With that adjustment -- so I didn't do the math,
2 but you need to deduct \$3,802.31 from the \$1,462,384.21, to get
3 the final figure. With that change, Perkins Coie is approved.

4 MS. LINDE: Thank you, Your Honor.

5 THE COURT: Okay. Next is Weir & Partners LLP, which
6 is a miniscule amount, and I'm sorry to single them out. Let
7 me find it. Anybody appearing for Weir & Partners?

8 Weir only seeks fees of \$2,349 and expenses of
9 \$154.68. The expenses are for the second, third and fourth
10 interim periods. The U.S. Trustee had no objection. But the
11 Weir application for expenses is insufficiently detailed to be
12 approved, and consists entirely of six headings and a total for
13 each heading.

14 Somebody communicate to Weir that they should resubmit
15 detailed expenses, and no further hearing will be required.
16 The Court will rule on it when I receive the detail.

17 MR. MARINUZZI: Your Honor, if they would like they
18 could withdraw their request for reimbursement of expenses?

19 THE COURT: They can. So I'll approve the fees, it's
20 2,349 dollars. The expenses in this case are miniscule.

21 But every one of these applications we go over in
22 detail, and this has happened earlier in the case when I've
23 required we get the detail on expenses. We don't have it, so
24 it's not approved.

25 MR. MARINUZZI: We'll get back to them, Your Honor.

1 THE COURT: Okay. All right. Let's deal with Epiq
2 next. Is someone here for Epiq? Anybody on the phone for
3 Epiq?

4 Epiq is seeking -- after a resolution with the U.S.
5 Trustee, Epiq is seeking fees in the amount of \$184,593.16 and
6 expenses for this fifth period of \$42,135.64. The total
7 expenses they're seeking are \$255,878.82.

8 Epiq has not provided sufficient detail with respect
9 to the expense request for this fifth period, given the
10 magnitude of the expenses, both in absolute terms and relative
11 terms, the amount requested for the fifth period is larger --
12 of expenses, is larger than the amount of the fees for the
13 fifth period. The lumped entries in the summary of expenses
14 that Epiq provided, that's at ECF docket number 6882, at page
15 5, are insufficient.

16 It includes items such as "call center maintenance"
17 and taxes. Without more detail, the Court will not approve
18 Epiq's expenses for the fourth (sic) period. I'm going to hold
19 on the fees and expenses for the fourth (sic) period since the
20 expenses exceeded the total fees. I'll wait to get it.
21 Someone going to communicate with Epiq, Mr. Mannal?

22 MR. MANNAL: Yes, Your Honor. Doug Mannal from the
23 creditors' committee.

24 We'll communicate with Epiq. And I believe Todd
25 Wuertz was on the phone, I'm not sure if he still is.

1 THE COURT: Is anybody for Epiq still on the phone?

2 MR. MANNAL: We'll be sure to communicate that to
3 them.

4 THE COURT: Okay. I'll resolve it quickly once I get
5 the additional detail.

6 MR. MANNAL: Thank you, Your Honor.

7 THE COURT: Let's deal with SilvermanAcampora.

8 MR. NOSEK: Good morning, Your Honor. Robert Nosek,
9 SilvermanAcampora.

10 THE COURT: Thank you. There's a single entry -- and
11 there's no objection from the U.S. Trustee.

12 There's a single entry from November 15th, 2013, for
13 Mr. Krell with no attached description. It's at Exhibit A at
14 page 718. It's all of 340 dollars, but it's a blank entry.

15 MR. NOSEK: I apologize to the Court for that.
16 Obviously --

17 THE COURT: We really do look at them.

18 MR. NOSEK: Absolutely.

19 THE COURT: And it's not a reflection -- because the
20 work that your firm has done has been excellent, so there
21 really is no criticism intended. I think it's just simply --
22 the final fee request is \$1,160,460.25. I'm going to approve
23 it reduced by 340 dollars. It's not worth waiting to -- okay.

24 MR. NOSEK: Thank you, Your Honor.

25 THE COURT: Just somebody when they submit the order,

1 just deduct -- and there was expenses of \$15,099.70. Okay.

2 MR. NOSEK: Thank you, Your Honor.

3 THE COURT: Thank you.

4 Let's come back to Carter Ledyard now.

5 MR. NOSEK: Your Honor?

6 THE COURT: Yes.

7 MR. NOSEK: May I be excused?

8 THE COURT: Oh, absolutely.

9 MR. NOSEK: Thank you, Your Honor.

10 MR. MANNAL: Your Honor, I believe you also said you
11 had issues with Wilmer Cutler?

12 THE COURT: Oh, yeah, I apologize, I was actually
13 putting you off. Let me deal with Wilmer Cutler. Sorry about
14 that. Let me find it in my notes, okay.

15 MR. PERLSTEIN: Good morning, Your Honor. William
16 Perlstein from Wilmer Cutler Pickering Hale and Dorr.

17 THE COURT: Let me see what my issue here was. So
18 Wilmer, after resolution with the UST, was seeking \$828,680.50
19 in fees, and expenses of \$3,713.58. The resolution -- proposed
20 resolution with the U.S. Trustee included a fee reduction of
21 \$3,071. The fee application included \$9,484.50 in connection
22 with the preparation of the fee application. And that
23 represented 15.4 percent of the total fees requested,
24 significantly higher than the three to five percent Mesa range
25 that I referred to earlier.

1 I'll give you a chance, Mr. Perlstein. What I'm
2 not -- I'm --

3 MR. PERLSTEIN: I don't believe it was fifteen
4 percent, Your Honor. If it was 9,000 or 128,000 it was going
5 to be --

6 THE COURT: Well, this was from the fourth period, not
7 the total fees. The fifth period, excuse me.

8 MR. PERLSTEIN: Yeah. I believe that the fee was
9 9,484 before the reduction, and the total fees for the period
10 were 125,000 dollars, or 128,000 before the reduction. So it
11 would have been maybe seven percent, and I think it was the
12 issue that Mr. Masumoto talked about in terms of it was --

13 THE COURT: All right. Let me hear from Mr. Masumoto,
14 okay. And maybe I'm satisfied, maybe my math was just wrong on
15 that. All right.

16 MR. PERLSTEIN: Okay, thank you, Your Honor.

17 THE COURT: I didn't bring a calculator out with me.

18 MR. MASUMOTO: Your Honor, I believe, as indicated --
19 I don't have the exact numbers, but as indicated in our
20 pleading, we did address the fee application preparation costs.
21 And I believe we thought the -- I don't remember the exact
22 percentage we obtained, but the three -- we thought the
23 \$3,000.71 reduction brought it within -- or closer to Mesa
24 range.

25 THE COURT: Okay. Let me see whether -- I had some

1 other notes here.

2 All right, I'm satisfied by that explanation. So I'm
3 approving fees for Wilmer Cutler of \$828,680.50, and expenses
4 of \$3,713.58.

5 MR. PERLSTEIN: That matches my --

6 THE COURT: Okay. That's approved.

7 MR. PERLSTEIN: -- my notes as well, Your Honor.

8 THE COURT: Okay. I'm sorry to keep you here, Mr.
9 Perlstein.

10 MR. PERLSTEIN: That's all right. Thank you very
11 much, Your Honor.

12 THE COURT: Thank you.

13 All right. Now, we're up to Carter Ledyard. And
14 you're certainly excused, if you wish to be, Mr. Perlstein.

15 MR. GADSDEN: Good morning, Your Honor. James
16 Gadsden, Carter Ledyard & Milburn LLP, consultant to the
17 committee of unsecured creditors, not special counsel as we
18 were identified by debtors' counsel at the beginning of the
19 hearing.

20 My application presents basically a pure issue of law,
21 which is whether an individual or a firm that's retained as a
22 testifying expert in litigation, is required to be retained
23 pursuant to 1103 and 328, and is required to be -- to establish
24 that it is disinterested or does not have an adverse interest
25 as those --

1 THE COURT: Let me ask you this, Mr. Gadsden. You
2 weren't retained under 327. You didn't have to be retained
3 under 327. Why did you do a conflicts check?

4 MR. GADSDEN: At the request, or really insistence of
5 creditors' committee counsel who retained me.

6 THE COURT: You would testify as an expert witness
7 without having done a conflicts check to see whether your firm
8 has a conflict?

9 MR. GADSDEN: No -- of course. When I was contacted
10 by the creditors' committee counsel and asked to be retained, I
11 made a check -- ordinary check that the firm conducts any time
12 it's retained to determine whether we had a conflict. And
13 then --

14 THE COURT: And is it your practice or your firm's
15 practice to bill a client, or prospective client, for a
16 conflicts check, when you do?

17 MR. GADSDEN: No, Your Honor, not -- but that's not
18 the fees that are involved here. So after I'd done that and
19 was retained, I was given the list of 1,000 parties, including
20 all the judges in this court, all the servicers of the loans
21 administered by the debtors, all the employees in the U.S.
22 Trustee's Office, and the full list of 1,000 people and firms,
23 and told that I had to make an investigation as to whether the
24 firm had any relationship with any of those entities or their
25 affiliates.

1 THE COURT: Do you have a written engagement letter?

2 MR. GADSDEN: Yes, Your Honor. It's an exhibit to my
3 retention -- my application.

4 THE COURT: And does it provide for your recovery of
5 expenses for doing conflicts check?

6 MR. GADSDEN: I don't believe it addresses it, Your
7 Honor.

8 THE COURT: It didn't.

9 MR. GADSDEN: Your Honor, as I said, I think the issue
10 presented here was whether that activity is required of the --

11 THE COURT: Why isn't doing a conflicts check to serve
12 as an expert the cost of doing business?

13 MR. GADSDEN: Yes, it was, Your Honor, for the initial
14 check. Not required and not necessary for my firm to be
15 retained as a testifying expert in litigation, not as counsel
16 to a party, not to advise any party or handle the
17 administration of this case. But I was retained as an expert
18 in a piece of litigation.

19 THE COURT: If you were retained as an expert and gave
20 testimony that favored an existing client of your firm, that
21 wouldn't -- would that have been an appropriate subject for
22 cross-examination?

23 MR. GADSDEN: Absolutely. Absolutely. And that check
24 was made. The issue here, again, is given the seven-page list
25 of parties that are required for the full conflicts check for a

1 party to establish statutory disinterestedness for the purposes
2 of the Bankruptcy Code was imposed upon me and my firm --

3 THE COURT: To turn down --

4 MR. GADSDEN: -- over and above --

5 THE COURT: -- so turn down the engagement or write an
6 engagement letter that specifically provides that you will be
7 compensated -- I'm not sure at the end of the day whether I'm
8 going to approve it, but it should have expressly included a
9 provision that you be compensated -- I mean it's a cost of
10 doing business.

11 MR. GADSDEN: I --

12 THE COURT: You've been practicing law a long time, as
13 I remember.

14 MR. GADSDEN: Yes, Your Honor.

15 THE COURT: And you would never undertake a matter
16 without doing a complete conflicts check, would you?

17 MR. GADSDEN: But there's a --

18 THE COURT: Have you ever charged a client for doing a
19 conflicts check?

20 MR. GADSDEN: No, Your Honor, as I've said before.

21 THE COURT: That's --

22 MR. GADSDEN: But the issue here is whether or not a
23 testifying expert in litigation is required to be retained at
24 all --

25 THE COURT: You weren't.

1 MR. GADSDEN: -- and required to go through this
2 process.

3 THE COURT: So why did you do a conflicts check?

4 MR. GADSDEN: It was made a requirement for the
5 retention and engagement in this case.

6 THE COURT: Would you ever testify as an expert
7 witness without doing a conflicts check, as long as you're a
8 partner in a law firm? You couldn't -- you're not permitted to
9 testify adversely to one of your clients. Are you?

10 MR. GADSDEN: Of course, Your Honor; and I did that
11 check and I'm not seeking compensation for that.

12 THE COURT: You know, sometimes conflicts checks
13 require reviewing a thousand different names. I mean it's an
14 enormous -- it can be an enormous burden and you -- I've
15 never -- I've practiced for the same firm for thirty-four years
16 and never once would I have thought of charging a client for a
17 conflicts check --

18 MR. GADSDEN: But --

19 THE COURT: -- even as extensive as it might be.

20 MR. GADSDEN: Here, Your Honor, it wasn't just a check
21 to find out whether I would be subject to impeachment on any
22 basis as a testifying expert. Here it was did I meet the
23 standard of statutory disinterestedness under the Code which
24 included a check, as I said before, of our relationship with
25 any judge who sits on this court, any employee of the U.S.

1 Trustee's Office. I don't see how that's necessary to
2 establish that the firm lacks bias -- or I lacked a bias in
3 testifying as a testifying expert in a discrete piece of
4 litigation.

5 THE COURT: Let me hear from Mr. Masumoto.

6 MR. MASUMOTO: Good morning, Your Honor. Brian
7 Masumoto for the Office of the United States Trustee.

8 Your Honor, as indicated in our pleadings, we did
9 attempt to follow the same rule without distinction as to
10 whether an individual is testifying as an expert or as a
11 professional. We do believe that whether or not as an expert
12 or a professional, as Your Honor suggested in your colloquy, if
13 in fact, the testimony may be adverse to any one of a thousand
14 people included on the conflicts check, that certainly that
15 should be disclosed, and certainly I would think any
16 individual, any expert, would want to make sure that that
17 information is available both to its client and to other
18 individuals.

19 As for the matters that were included that Mr. Gadsden
20 referred to as to conflicts checks regarding judges and the
21 U.S. Trustee's Office, I certainly don't believe that that
22 amounted to a significant portion of the 31,000 dollars
23 involved in conflicts checks. So whether or not they did that
24 comparison and whether or not that would have had any impact on
25 their testimony, I think it would be a rather de minimis

1 portion of the cost that was charged to the estate.

2 Accordingly, we do believe that in accordance with
3 your practice with respect to professionals in this case, that
4 the conflicts undertaken by an expert witness should be the
5 same as that as a professional, and that cost should be borne
6 as overhead by the expert.

7 THE COURT: All right. Mr. Gadsden, I have another
8 question for you.

9 MR. GADSDEN: Yes, Your Honor.

10 THE COURT: Your invoice number 1135951, dated
11 December 12th, 2013, consisted entirely of entries associated
12 with revising billing records. Why is that permissible? I
13 have --

14 MR. GADSDEN: I --

15 THE COURT: Stop.

16 MR. GADSDEN: Yes. Sorry.

17 THE COURT: I have -- I understand, I'm not saying you
18 were retained as a lawyer; you were retained as an expert. Why
19 should I have --

20 MR. GADSDEN: I accept --

21 THE COURT: -- ruled before --

22 MR. GADSDEN: I accept that adjustment, Your Honor.

23 THE COURT: All right. Go ahead, Mr. Gadsden.

24 MR. GADSDEN: All right. I guess I've made my
25 presentation. I would just call the Court's attention to the

1 list of parties for which the search was required which is
2 attached as Schedule 1 to my affidavit which is part of our
3 retention aff --

4 THE COURT: Did somebody give you that list
5 electronically so you could run it through your firm's computer
6 system which is the way that conflicts checks ordinarily get
7 done in a big firm?

8 MR. GADSDEN: Yes, Your Honor. It wasn't -- it
9 wasn't --

10 THE COURT: You didn't have to manually search a
11 thousand names?

12 MR. GADSDEN: No, Your Honor. The time that's
13 required is matching up the information that's generated for
14 each of the thousand names and their affiliates. And, as I
15 said, the names are all listed on the schedule to my retention
16 affidavit. And it goes, in my view, Your Honor -- our view on
17 what is required to do to establish lack of bias for the
18 purpose of my testimony.

19 THE COURT: All right. Court's ruling is as follows.

20 A lawyer serving as an expert witness is not entitled
21 to be compen -- absent a engagement letter that expressly
22 covers the issue, as to which I won't rule if it is, but in the
23 absence of such a provision, conducting a conflicts check is a
24 cost of doing business not compensable from the estate.

25 I will reserve if the issue returns to me in some

1 other case where there is an engagement letter that
2 specifically covers it.

3 So the Carter Ledyard fee request should be reduced by
4 the amount -- I think it was \$31,494.25 is the amount of the
5 request that pertains to the conflicts check. Additionally,
6 the amount should be reduced by 1,190 dollars for the entry in
7 the December 12th, 2013 invoice 1135951 for revising billing
8 records. As I've held before, that is not compensable.

9 With those two adjustments, the Carter Ledyard
10 application for fees and expenses is approved.

11 MR. GADSDEN: Thank you, Your Honor. May I be
12 excused?

13 THE COURT: Yes, absolutely.

14 All right. Let's move on to the Chadbourne
15 application.

16 The Chadbourne application seeks final fees in the
17 amount of 46,860- dollars -- excuse me; let me say that
18 again -- \$46,860,806.66 and expenses of \$2,995,419.47. Those
19 amounts are after the fee reduction agreed upon with the U.S.
20 Trustee of \$30,000. Mr. Seife?

21 MR. SEIFE: Thank you, Your Honor. Howard Seife from
22 the law firm of Chadbourne & Parke, counsel for the examiner in
23 this case.

24 I think Your Honor is very familiar with the work of
25 the professionals for the examiner including Chadbourne. As

1 you know, it was a very extensive undertaking mandated by the
2 request of the parties in the case as to the scope of the
3 investigation which, as we all know, was very broad and dealt
4 with extremely complicated issues that required extensive
5 factual discovery with nine million pages of documents that
6 were produced and reviewed; over ninety-nine days of witness
7 interviews, eighty-three different witnesses. We met with all
8 of the significant parties in the case, many on multiple
9 occasions, had the benefit of their presentations and the
10 benefit of their legal theories as to potential claims in the
11 case. All this culminated in the report which Your Honor's
12 very familiar with, in excess of 2,200 pages with the appendix.

13 The report identified substantial potential causes of
14 action, over five billion dollars. And we'd like to think that
15 the presence of the investigation and the parties' awareness of
16 the issues we were examining which they were aware of through
17 our frequent meetings, helped in some way foster the ultimate
18 resolution in the case, obviously, with many other parties
19 involved and the assistance of the mediator.

20 Most importantly, we think we fulfilled the mandate
21 requested by the parties and Your Honor in this case. No one
22 has questioned whether we fulfilled our mandate or that we
23 didn't do it properly and well. The question which is being
24 raised by the objection from the Liquidating Trust relates to
25 the reasonableness of the fees. And one needs to examine

1 reasonableness in light of the magnitude of the project, the
2 complexity of the issues, and something very important, which
3 is the timeframe within which we are operating.

4 As Your Honor is well aware, we had very extreme time
5 constraints. We had strict deadlines that the Court asked us
6 to adhere to. There was a lot going on in the case, and it was
7 clear no one wanted the examiner's work to delay the ultimate
8 resolution of the case. That extreme time pressures had its
9 impact on how we approached the examination. Whereas, if we
10 had the luxury of time to do things in a logical sequence, one
11 would commence document discovery, have the benefit of review
12 of documents, prepare for interviews, take that all into
13 account while research is going on, and then sit back and write
14 your report. We did not have that luxury. We were going down
15 all of those paths simultaneously.

16 So it created enormous strains on the professionals in
17 the case, including our firm, but it was a fascinating
18 assignment. I wouldn't suggest otherwise. Working with the
19 examiner, Mr. Gonzalez, was a wonderful opportunity. And in
20 the end, I think we produced, on time, a work product which was
21 requested by the parties.

22 Your Honor noted our fee request which is substantial;
23 but it was a substantial undertaking. We have settled, as you
24 noted, with the U.S. Trustee on its objections for the fifth
25 period. Those objections related to three categories:

1 preparation of the fee application, responding to objections
2 from the U.S. Trustee's Office, and multiple parties at
3 meetings. So that resulted in agreement to reduce the fees, as
4 you noted, by 30,000 dollars.

5 I think at this point, in light of the objection
6 that's been made, it's important to note that the U.S. Trustee,
7 as Your Honor noted at the commencement to these proceedings,
8 has been extremely active through each interim fee process
9 period in reviewing applications, and we have settled many,
10 many issues with the trustee, and either voluntarily or a
11 result of their efforts, have agreed to various reductions
12 throughout the case and those totaled some 545,000 dollars of
13 reductions in fees and expenses based on their review of each
14 of our interim applications.

15 In addition, I think it's worth noting when one
16 considers the reasonableness of the application, is that after
17 consultation with the examiner, Chadbourne agreed to forgo its
18 annual fee increases and what we call maturational fee
19 increases for associates that become partners or move up in the
20 ranks. And that resulted in a discount from our fees of 1.8
21 million dollars.

22 I think also when considering reasonableness of fees,
23 it's worth looking at blended hourly rates. Chadbourne's
24 blended hourly rate in this case was 594 dollars per hour. And
25 I think when one compares that to the other leading

1 professionals, including the debtors' counsel, which was at
2 654,000 dollars -- no -- 654 dollars, and creditors' committee
3 counsel which was at 694 dollars per hour, I think in
4 comparison, I think it's worth noting for reasonableness.

5 I would also point out that our calculation of blended
6 rate does not include the use of contract attorneys which would
7 have brought that rate down significantly, whereas the debtors'
8 counsel did include that in their calculation of a blended
9 rate. So I think the difference would have --

10 THE COURT: Have you run the numbers with the contract
11 attorneys?

12 MR. SEIFE: Excuse me?

13 THE COURT: Have you run the number --

14 MR. SEIFE: No.

15 THE COURT: -- for the blended hourly rate if you had
16 included the contract attorneys?

17 MR. SEIFE: We have not, Your Honor. We could do
18 that.

19 THE COURT: So -- and I'll give you a chance when you
20 come to the issue of the contract attorneys --

21 MR. SEIFE: Yes.

22 THE COURT: -- which is something that the Trust has
23 raised but go ahead with your presentation.

24 MR. SEIFE: Yes, and we can certainly do that
25 calculation.

1 So again, many -- I'll deal with the specific
2 objections after the presentation by the Trust so we can hear
3 exactly what they're pressing in terms of their objections;
4 however, based on our review of their objection, we did
5 acknowledge in our response, much as we would with the U.S.
6 Trustee, there were certain items which we acknowledge there
7 was probably a valid issue that they've raised, and we're
8 prepared to reduce our fees accordingly.

9 And --

10 THE COURT: Why don't you tick those off for me.

11 MR. SEIFE: I'll tick those off. There are three
12 items.

13 There was an objection really based on the Trust's
14 review of our 21,000 time entries; they found 49 where the
15 addition, I guess, was off by a total of 14.9 hours resulting
16 in what they view as an overcharge of 8,699 dollars. So we're
17 amenable to reducing our fee application by that amount.

18 The second issue was the use of summer associates --
19 billing for summer associates. There seems to be a split
20 within this court as to whether that's appropriate or not.
21 Rather than get into that debate, we'll write off the fees for
22 summer associates; 5,757 dollars.

23 The third issue where we're willing to make a
24 concession involves the category of document review. By way of
25 background, I'm sure Your Honor is well aware of the situation

1 we faced in the winter, starting November, when the torrent of
2 documents started coming over the transom and required
3 immediate review. And it was at shortly after that point we
4 started bringing in contract attorneys. But as part of the
5 review, we also had Chadbourne associates review documents.
6 Part of it was to maintain quality control and to provide
7 guidance to the contract attorneys, and part of it was just to
8 deal with the volumes that had to be reviewed.

9 We -- because of the number of bodies that were
10 required for that task, we did need to use some associates who
11 are probably more senior than one ordinarily would look to. So
12 we had identified six senior -- more senior attorneys in that
13 category and had already voluntarily marked their hourly rates
14 down to third-year associate rates.

15 The Trust apparently identified some additional
16 attorneys that we hadn't marked down. We're agreeable to doing
17 that and charge them at the hourly rate of third-year
18 associates, the 495 rate. That would amount to an additional
19 reduction in what we're seeking in the amount of 46,600
20 dollars.

21 So if I my math is correct, that would net out our
22 current fee request to 46,799 -- 46,799,7- --

23 THE COURT: Give it to me again. I'm sorry.

24 MR. SEIFE: Yes.

25 THE COURT: 46 million --

1 MR. SEIFE: \$46,799,750.66.

2 THE COURT: Okay. Let me hear from the Trust counsel
3 and then I'll give you a chance to speak.

4 MR. SEIFE: Thank you, Your Honor.

5 THE COURT: But address the con -- the issue of
6 contract attorney -- use of contract attorneys, if you would.

7 MR. SEIFE: In terms of the objection they raise?

8 THE COURT: Yes.

9 MR. SEIFE: As I understand the objection, it's based
10 on a lack of disclosure of what we were doing, that perhaps the
11 parties were not fully aware that we were using contract
12 attorneys. I would note that we did not mark up the contract
13 attorneys. We charged the estate at cost at the forty-eight
14 dollars an hour. I know other law firms treat that differently
15 and do mark up for overhead and other expenses, the hourly
16 rate. We did not do that.

17 They were working in our offices and using our
18 facilities, but we passed it straight through as charge --

19 THE COURT: The contract attorneys were physically
20 present in the Chadbourne offices when they performed the work?

21 MR. SEIFE: They were, Your Honor, and they were
22 supervised and overseen by Chadbourne attorneys. There may
23 have been one or two instances where for discrete periods of
24 time one or two of the contract attorneys worked remotely, but
25 I think that was the exception. And all of them spent

1 substantial time on the premises, if not all their time.

2 In terms of disclosure, I guess, first, we followed
3 the debtors' practice in this case. They hired contract
4 attorneys to assist them well before we did, and we followed
5 their lead.

6 We listed the expense of contract attorneys in our
7 monthly statements that were circulated among the parties.

8 The U.S. Trustee's Office, the creditors' committee,
9 were all alerted to our use of contract attorneys.

10 I filed a supplemental declaration with this court
11 which disclosed that we were using contract attorneys and
12 confirmed that we had checked each and every one for any
13 conflicts, and we used the thousands of names that were
14 referred to in the prior fee application.

15 The U.S. Trustee was all over our use of contract
16 attorneys. We worked closely with them. We provided them a
17 spreadsheet with productivity data of each of the individuals.
18 Part of the process was to make sure that each of the contract
19 attorneys was maintaining a proper run rate of document review;
20 and the U.S. Trustee was involved with that.

21 And finally, I would note, we have -- our firm, based
22 on the interim fee applications, we've paid out-of-pocket for
23 those services. So it's come out of the firm's pocket for
24 that.

25 The final thing I would note, this very issue came up

1 in the Delaware court in the Worldwide Direct case which we
2 cite in our papers, and the court there noted the very issue
3 that these contract attorneys were under close supervision of
4 the firm and that a separate retention application for each
5 individual attorney or for the service that supplies them was
6 not required.

7 So based on all that, we think we acted appropriately
8 and all the parties knew exactly what we're doing. And, not to
9 mention, I think, in chambers with Your Honor, we certainly
10 alluded to it from time to time.

11 THE COURT: All right. Let me hear from the Trust's
12 counsel.

13 MS STADLER: Thank you, Judge.

14 On behalf of the ResCap Liquidating Trust --

15 THE COURT: You need to make your appearance.

16 MS STADLER: Okay. A couple of rebuttal --

17 THE COURT: You need to make you appearance.

18 MS STADLER: Oh, I'm sorry.

19 THE COURT: Who you are.

20 MS STADLER: I thought you said I did not need to.

21 THE COURT: You do; no.

22 MS STADLER: My name is Katherine Stadler of the law
23 firm Godfrey & Kahn. I represent the ResCap Liquidating Trust.

24 THE COURT: Okay.

25 MS STADLER: We know and appreciate that the Court has

1 read all of the materials and is intimately familiar with these
2 cases and do not intend to reiterate what has been written. We
3 do, however, want to put the applications that are subject to
4 objection here today, not just Chadbourne & Parke which I will
5 address specifically, but all of them in the context of this
6 case.

7 As you know, the total professional fees in this case
8 are approximately 400 million with about a quarter of that sum
9 allocated to only three contested applications.

10 When the consenting claimants negotiated the plan
11 support agreement in April and May of 2013, it was contemplated
12 that the Trust would review all professional fees both for fees
13 incurred before the --

14 THE COURT: So the Trust isn't --

15 MS STADLER: -- plan before an agreement and after.

16 THE COURT: -- the Trust is one of two trusts created
17 by the plan --

18 MS STADLER: Correct.

19 THE COURT: -- and is the successor of the debtor in
20 that respect. Correct?

21 MS STADLER: Correct.

22 THE COURT: And the Trust steps in the shoes of the
23 debtor. Is that correct?

24 MS STADLER: That's correct. It succeeded to the
25 asset.

1 THE COURT: And so to the extent that the Court has
2 reviewed and ruled on four interim fee applications before
3 today with objections, generally, from the U.S. Trustee and
4 from the Court, and resolved issues, how do you get to re-trade
5 issues that were raised and resolved with respect to the first
6 four interim applications? I'll deal separately if there were
7 issues that weren't raised or addressed. But to the extent
8 that there were issues that were -- because the thing that was
9 most irritating about your objection -- and I am irritated --
10 is the extent to which you are trying to revisit issues that I
11 considered very carefully and ruled on and that Mr. Masumoto
12 and his colleagues in the U.S. Trustee's Office considered and
13 raised objections where appropriate and sought resolutions.
14 And here you want to wipe the slate clean. You come and you
15 step in the shoes of the debtor, but you don't seem to want to
16 be bound by anything that's happened in this case until now.

17 Do you know how much you've driven up the expenses for
18 today's hearing with -- yes, you raise a handful of issues that
19 were maybe not raised or resolved previously, but most
20 everything you raise was raised before me before and raised by
21 the U.S. Trustee and resolved. How do you -- where do you --
22 aren't you bound by what the party who you succeed has done?

23 MS. STADLER: I don't think so, Judge, respectfully.
24 You noted earlier the dearth of authority on the point.
25 Collier does address it, "A final application must be filed at

1 the end of each professional's engagement even if the
2 professional is not seeking additional compensation or payment.
3 Any amounts that were awarded as interim compensation are
4 subject to reconsideration at any time prior to the final award
5 for any reason."

6 THE COURT: And when you go look at the cases where
7 those fees and expenses have been reconsidered, it's generally
8 been because the case is administratively insolvent, or they're
9 allegations of breach of fiduciary duty or other professional
10 misconduct. But you want to just retrade issues that were
11 raised and resolved before, resulting in me spending and my
12 staff spending an enormous amount of time going over what we've
13 done before, because you feel you can come in here and just
14 retrade the same issues.

15 No, I'm not -- I said in my earlier comments, I don't
16 believe that strict preclusion principles prevent you from
17 doing it, but you're asking me to go back and revisit things
18 that I've determined before. And you don't even -- so here's
19 my question. What did you do before you prepared your
20 objection in going back? Did you read all the prior fee
21 applications?

22 MS. STADLER: Yes, I did.

23 THE COURT: Did you read all the prior objections
24 filed by the U.S. Trustee?

25 MS. STADLER: Yes, we did.

1 THE COURT: Did you read all the transcripts from
2 hearings at which this Court ruled on fee applications?

3 MS. STADLER: Yes, we did.

4 THE COURT: And did you note any of that in your
5 papers? Did you note in any of your objections the prior
6 hearings when the issues you seek to raise now were raised,
7 considered, and ruled on by the Court? No, you didn't. How
8 are you being compensated?

9 MS. STADLER: We've been retained by the Liquidating
10 Trust.

11 THE COURT: On what basis?

12 MS. STADLER: On an hourly fee basis.

13 THE COURT: And do you consider whether you're wasting
14 the trust's money by driving up the costs in this case by
15 raising objections that raise no new grounds from what were
16 considered before? You have a handful, a smattering of issues
17 that you raise that weren't raised before, minor, but, yet, you
18 come and you file this application that's required extensive
19 responses from those parties to whom you've objected, when the
20 Court considered the precise issues before. The U.S. Trustee
21 raised the precise issues before. They were resolved by the
22 Court. You make no allegations of any breach of fiduciary
23 duty, not administrative insolvency, no other -- you really
24 haven't flagged other issues that would cause the Court to want
25 to go back and rule again on issues I ruled on before. You did

1 it in GM, too.

2 MS. STADLER: Let me address, briefly --

3 THE COURT: This is your little cottage industry you
4 have for -- you claim to have some proprietary -- because we
5 had at least one or two telephone conferences I don't think
6 were on the record. I will disclose the content of those. And
7 I believe you told me then, you weren't satisfied with the
8 format in which Chadbourne & Park was providing you with the
9 data on their fees and expenses because it didn't work with
10 your proprietary software that enables you to review all the
11 fees in a case. That's the substance of what was raised
12 before, in a telephone conference before today, sometime before
13 today.

14 So you've got some proprietary software that you think
15 enables you, well after the fact, to go back and challenge all
16 items that you think shouldn't have been approved, but which
17 were approved, most of which, your objections now, were raised
18 and decided by the Court before. Yet, you stand here now,
19 having consumed an enormous amount of my time, my staff's time,
20 and the applicant's time, to once again address issues that
21 were addressed before.

22 Yeah, I'm aggravated. I'm mad. What's the authority
23 for you stepping in the shoes of the debtor to raise issues
24 that have been raised before and resolved before?

25 MS. STADLER: The authority, Your Honor, is in the

1 trust's obligations under the plan documents to evaluate all of
2 the claims filed. The understanding of the parties who signed
3 off on the plan support agreement --

4 THE COURT: Are you going to go back and ask the Court
5 to review claim determinations that I've made because I've
6 heard and I still hear slews of claim objections. Are you
7 going to try and revisit because you think you've got an
8 obligation to go back and review everything that's occurred?
9 You're going to ask this Court to review my decisions on the
10 numerous claim objections that have come up?

11 MS. STADLER: No, certainly not. The administrative
12 expense claims for fees, as you know, are different from other
13 types of claims. The adjudication of a claim objection is
14 certainly final and binding, and the time to appeal those
15 determinations long since have run. The trust and the other
16 parties-in-interest in this case focused their energies during
17 the case on the negotiation of a plan and terms that --

18 THE COURT: Are you telling me that I didn't take the
19 time to review the interim fee applications --

20 MS. STADLER: No --

21 THE COURT: -- carefully --

22 MS. STADLER: certainly not.

23 THE COURT: -- scrutinize them and all the detail, and
24 raise issues where I thought it was appropriate to raise
25 issues, or to the extent that the U.S. Trustee, Mr. Masumoto,

1 Mr. Driscoll is in the Court, to the extent that they raised
2 issues, you think I didn't consider those at the time?

3 MS. STADLER: Certainly not. My representation to the
4 Court is that on behalf of its constituency --

5 THE COURT: So why didn't --

6 MS. STADLER: - the trust did not.

7 THE COURT: -- you address any of the colloquy and
8 discussions in the transcripts, which you've said you read, of
9 all of the interim fee application hearings.

10 MS. STADLER: We did try to. Let me address that
11 issue. Mr. Masumoto provided this morning a chart summarizing
12 the deductions for each of the categories objected to with
13 respect to Chadbourne.

14 THE COURT: Not each, but because --

15 MS. STADLER: Well --

16 THE COURT: -- as I said in my --

17 MS. STADLER: Right.

18 THE COURT: -- comments earlier today, the U.S.
19 Trustee or the Court may have had objections that covered five,
20 six --

21 MS. STADLER: Right.

22 THE COURT: -- two, some number of categories
23 included --

24 MS. STADLER: Right.

25 THE COURT: -- in a larger fee application --

1 MS. STADLER: Right.

2 THE COURT: -- and what I always wanted to be sure was
3 that the number, if there was a proposed resolution by the U.S.
4 Trustee, that it satisfied the Court as to any items that I had
5 identified and not to penalize applicants by adding on to what
6 had been proposed by the U.S. Trustee additional deductions
7 that may have covered the same items that the Court had.

8 MS. STADLER: Right.

9 THE COURT: So if you read the transcripts, you'd know
10 that's what I've done --

11 MS. STADLER: We did.

12 THE COURT: -- at each of the hearings.

13 MS. STADLER: Correct. And we did try, in certain
14 specific instances, to conform the objections to the rulings
15 Your Honor had made previously, for example, with respect to
16 travel to and from New York in the Mesirow application, for
17 example. Let me address very briefly --

18 THE COURT: So you raise the issue of transitory time
19 keepers; you know that Mr. Masumoto raised issues of transitory
20 timekeepers. You raised issues of staffing inefficiency; you
21 know that Mr. Masumoto raised issues about staffing
22 inefficiency. You raised issues about vagueness of -- and
23 usually the issues you've raised about vagueness clearly the
24 entries weren't vague, but you know that Mr. Masumoto and the
25 Court addressed issues of vagueness entries. You know that the

1 Court regularly raised issues about the number of attendees at
2 hearings or meetings. You raised that issue.

3 MS. STADLER: Yes, and with respect to certain of
4 those categories, we did undertake to do a line-by-line
5 comparison of the trust's objections to the trustee's
6 objections. For example, in the non-compensable billing
7 activity category that you just mentioned, the trust objection
8 on Chadbourne -- I'm sorry, on Mesirow, for example, is 268,000
9 dollars consisting of 599 entries. We compared that to the
10 trustee's objection which included 299 entries totaling 176,000
11 dollars.

12 THE COURT: And what you don't have in front of you
13 were my own --

14 MS. STADLER: Right.

15 THE COURT: -- notes because they're not public.

16 MS. STADLER: Right.

17 THE COURT: Because my clerks, interns, and myself
18 would go through the applications to see -- looking for exactly
19 those things.

20 MS. STADLER: Right. So I guess my point there was,
21 we did undertake an effort to reconcile. We do have Mr.
22 Masumoto's totals of the deductions, and to the extent it is
23 possible, we are certainly committed to a process of
24 reconciling or trueing up so that no one, as you said earlier,
25 is double dinged for a category. The fact remains, with

1 respect to Chadbourne, that the objections and our back-of-the-
2 envelope math, based on Mr. Masumoto's chart, the deductions
3 are arranged with the trustee total about 410,000 dollars. Mr.
4 [Seef]'s number was different --

5 THE COURT: Mr. [Sife].

6 MS. STADLER: Mr. Seife's number was different, and I
7 will defer to him on that. Nonetheless, without an ability to
8 determine which negotiated categories those deductions
9 resulted --

10 THE COURT: You get to second guess what was done
11 before because you couldn't find a precise line-up of the items
12 that you're proprietary software identified. So you felt you
13 could come in here and reargue all of those issues. Is that
14 it?

15 MS. STADLER: No, I don't think so, Judge. I think
16 what we're trying to do is bring the universe of objectionable
17 issues to the attention of the Court for purposes of fulfilling
18 the trust's fiduciary obligation to its constituents, and, as I
19 said, committed to ensuring that the efforts of the trustee and
20 the Court, which are amply noted, are taken into consideration
21 in reconciling any of those objections, but for the benefit of
22 all of the creditors and the constituents who are expecting the
23 trust to be a steward of their assets. They wanted to carry
24 out their obligation under the terms of the plan support
25 agreement to review all fees de novo at the end of the case.

1 Certainly, there is no suggestion that anyone; not the
2 examiner, not the Court, not the U.S. Trustee's Office fell
3 down on the job. The trust, for its purposes and on behalf of
4 its constituents, chose to defer the comprehensive evaluation
5 of fee applications to the final fee period. That decision, if
6 it turned out to be inopportune, was based on the trust's
7 understanding of the final fee process.

8 There's certainly no suggestion, as you said, of
9 fiduciary misconduct, administrative insolvency, but there's
10 also a line of case law that Collier cited, and I know Your
11 Honor has read, that suggests that the totality of the
12 circumstances, in that final fee phase, and comparison of the
13 results obtained and many of the other factors that Section 330
14 articulates is more appropriately in a holistic fashion at the
15 end of the case.

16 The trust undertook this effort and applied its
17 standards to everyone. It examined anew each and every one of
18 the forty-five applications we've walked through this morning
19 and identified problems with only five. In many instances, it
20 identified no problem. In many instances, it identified
21 problems that were de minimis, and it determined had been
22 adequately resolved by the trustee's objections, which we did
23 evaluate to the extent possible and compare to our own. And
24 there were a few, at the end, that did not come out of that
25 process without continued concerns on the part of the trustees

1 as fiduciaries.

2 THE COURT: And what animates your concern about the
3 Chadbourne application?

4 MS. STADLER: Well, the Chadbourne application as
5 we've arti --

6 THE COURT: Have you read -- I actually have read the
7 report from cover-to-cover. Have you?

8 MS. STADLER: Yes. No, I cannot claim to have done
9 that.

10 THE COURT: How much of it have you read?

11 MS. STADLER: I read the executive summary --

12 THE COURT: Okay.

13 MS. STADLER: -- and --

14 THE COURT: Did you charge your client for doing that?

15 MS. STADLER: No, I didn't. No, I did not, in fact.

16 I read the executive summary, and I would say, to be honest to
17 the Court, beyond the executive summary, I probably read five
18 percent of the examiner's report.

19 THE COURT: And --

20 MS. STADLER: Personally, I can't speak for anyone
21 else on behalf of the trust.

22 THE COURT: You think the examiner's report was
23 unnecessary or inappropriately thorough?

24 MS. STADLER: Certainly not. No one is questioning
25 that. The examiner served his obligations under his

1 appointment order and did the job he was hired to do and did it
2 well.

3 THE COURT: And you also see that the work plan that
4 was submitted by the examiner on behalf of the examiner was
5 revised from time-to-time?

6 MS. STADLER: Yes.

7 THE COURT: So Mr. Seife referred to the parties in
8 the case requesting a broader scope. All that was reviewed
9 with the Court. So Mr. Seife just didn't, and Chadbourne and
10 the examiner, Mr. Gonzalez, didn't just simply go off and
11 willy-nilly decide we're going to examine these additional
12 issues because a creditor or the creditors' committee or some
13 other party didn't just raise the issue. There were revised
14 work plans, budgets that were presented to the Court, and I was
15 certainly aware, throughout, when the scope of the engagement
16 of the examiner expanded.

17 So you're not questioning the -- I take it then, so
18 you're not questioning the scope of the examiner's
19 investigation?

20 MS. STADLER: No, we are not, nor are we questioning
21 the performance of the examiner himself. His fees are
22 undisputed. The term Your Honor used earlier, sticker shock,
23 is probably the best explanation for the issues that are facing
24 us today. For an examiner's report in any case and the bulk of
25 the cost of the report, of course, resulting from the

1 professional fees and not the examiner's work itself, to
2 consume more than twenty percent of the administrative case
3 budget is shocking. And it caused the trust to take a closer
4 look at those bills. When it did so, it determined that there
5 were items in the bills, some raised previously by the trustee
6 in the Court and some not, that --

7 THE COURT: What items do you raise today that were
8 not previously raised by the Court or the U.S. Trustee?

9 MS. STADLER: Well, there's --

10 THE COURT: Just focusing specifically on Chadbourne.

11 MS. STADLER: Specifically with respect to Chadbourne,
12 we talked about the summer associate fees.

13 THE COURT: Well, that's out so that's --

14 MS. STADLER: Right, there's a larger --

15 THE COURT: That's an issue on which my colleagues may
16 differ. I don't have to rule on it because they've been taken
17 out.

18 MS. STADLER: Right. There's a larger category, and
19 those are itemized in Exhibit C-2 of professionals who were not
20 yet admitted and --

21 THE COURT: You lost on that issue before Judge
22 Gerber, right?

23 MS. STADLER: What Judge Gerber said was that
24 attorneys who had graduated from law school and passed the bar
25 but had not yet been admitted should be compensated as

1 attorneys. But that attorneys who had hadn't completed their
2 legal education or passed a bar exam, should be paid as
3 paralegals. And given the data that was in the supporting
4 material for the fee application, there was no way to know why
5 one attorney was or was not admitted. So that --

6 THE COURT: Okay. And do you have a case that
7 supports -- because I didn't see any case law that -- and I
8 think the U.S. Trustee from time-to-time raises this issue.
9 But I don't know of a specific published decision that
10 addressed the issue of what the appropriate compensation rate
11 for graduates of law school not yet admitted to the bar is. Do
12 you have any cases?

13 MS. STADLER: No, I don't. Certainly not published
14 cases. The other categories not included in the trustee's
15 universe of objections include, primarily, the typesetting and
16 proofreading issue, and the clawback issues that are
17 identified. There's also --

18 THE COURT: Let's take the clawback issue because --

19 MS. STADLER: Sure.

20 THE COURT: -- it's easy for me to deal with right off
21 the bat. I'm really surprised by your objection, because you
22 seem to say they should have just returned the documents.
23 Whether the request for a clawback was well taken or not, just
24 give it back. Why did you incur this cost?

25 I reviewed document -- there's no transcript from

1 this, I don't think, because I reviewed where, I think, that
2 the trustee -- excuse me, the examiner and his counsel
3 endeavored to resolve the issues without the necessity of court
4 intervention. It's my standard rules, I applied here, and they
5 got many of the issues resolved. When they couldn't get the
6 issues resolved, I reviewed boxes of documents in camera, and I
7 got letter briefs with respect to clawback claims, what the
8 arguments were, and I ruled on them. And I'm more often -- the
9 examiner won on most, lost on a few, some were resolved with
10 redactions that I approved.

11 The bottom line is, most of the clawback requests were
12 not well taken. The Court overruled them, and your brief
13 suggests just give the documents back despite, and I remember
14 as the clock was ticking and I'm responsible for that, okay,
15 the time pressure was directly the result of deadlines I
16 imposed. This was a big case. If I hadn't imposed deadlines,
17 we still wouldn't have a confirmed plan. The quarterly
18 professional fees would have continued to skyrocket. So this
19 case was moving forward. I set what I thought were reasonable
20 but tight timelines.

21 The examiner's report was a very important -- the case
22 is perhaps a little unusual because it was the overhang of the
23 completed examiner's report that finally led almost all the
24 parties to a consensual resolution. I say, almost, because the
25 JSNs did not, and we had to have some trials about it but --

1 and the parties, most of the parties-in-interest were very
2 aware of what issues the examiner was looking at. And I have
3 no doubt that the overhang of that report was a motivating
4 factor in coming to a consensual resolution.

5 But one of the arguments I heard on the clawback
6 request is because of the deadlines, Judge, that you've
7 imposed, we're working on sections of this report that refer to
8 documents, refer to interviews as to which now there's a
9 clawback request, and we have to go back, and as Mr. Seife says
10 in his response to your objection, they have to go back and
11 look at all the different work streams, all the different
12 sections that are being drafted. And if a document's clawback,
13 remove references to the document or interview testimony based
14 on the document. And so it was real problem, and it all got
15 resolved. It got resolved because if they couldn't resolve the
16 clawback requests on their own, I heard it in camera. I looked
17 at the documents, and I entered -- I know there's a written
18 order where there was a long list of specific documents where
19 I'd overruled or I said with the following redacted, et cetera,
20 but your paper is just, give it back. Isn't that the position
21 you've taken?

22 MS. STADLER: The position that we've taken is that
23 the trust's understanding of the process, the expedited process
24 for document production --

25 THE COURT: Just tell me this. Answer my question,

1 and then I'll let you give an answer. You've taken the
2 position that rather than fighting clawbacks, the examiner and
3 his professionals should have just returned the documents?

4 MS. STADLER: I don't think that --

5 THE COURT: Yes or no?

6 MS. STADLER: I don't think that fairly characterizes
7 our brief. I think what we've stated is that we think that the
8 amount of time spent on clawback activities, in both
9 professionals, warrants a closer look. And that we've raised
10 that for the Court's attention. And obviously your judgment,
11 as an experienced participant in the process, certainly carries
12 the day.

13 The only other issue that does not overlap in any
14 respect with the trustee's objection is the typesetting. You
15 had asked me to itemize those.

16 THE COURT: Yes.

17 MS. STADLER: And that's a 371,000 dollar expense.
18 And I do want to, just briefly, address the different
19 methodology we applied for Chadbourne and Mesirow because I
20 know that was an issue raised in the responses. When we looked
21 at this, on behalf of the trust afresh in the final fee-review
22 process, we looked at all the documents Your Honor has itemized
23 and discussed, and asked ourselves what role Chadbourne and
24 what role Mesirow played and how the two of the them worked
25 together to create this significant work product.

1 The premise underlying the objection and the different
2 treatment of the professionals is that Chadbourne & Park, as
3 the legal counsel and the primary drafter of the document, was
4 responsible for the final packaging of the product and putting
5 it to press and putting it out to the public. The financial
6 advisor role, in the Liquidating Trust's view, is a supporting
7 function to provide very high level detailed financial
8 analysis, which Mesirow certainly did. But to have Mesirow
9 professionals, in addition to Chadbourne professionals,
10 spending millions of dollars and time in editing and
11 proofreading once that text had been consolidated with a single
12 document production system, in this case a typesetter, that the
13 process could and should have been streamlined with Chadbourne
14 taking the lead on editing, creating more uniformity, making
15 sure that things flow and fit and together, and that the role
16 of the financial advisor, at that point, would be limited to
17 financial checking and making sure the financial
18 representations and the charts and tables were adequate.

19 THE COURT: Have you ever undertaken an investigation
20 of the scope and magnitude of this one?

21 MS. STADLER: I don't think many people have, Judge.

22 THE COURT: And what is it that -- why is that you
23 think your judgment should be substituted for that of the
24 professionals who undertook this engagement?

25 MS. STADLER: The trust believes that its judgment

1 ought to be given weight in the analysis, not necessarily to
2 override the professionals, when the context of the case is
3 viewed as a whole, when the cost of the process, the role of
4 all the other players, as you've mentioned, including the
5 parties, Judge Peck as mediator, all of those things in the
6 trust's view contributed to the success of the case. And while
7 the examiner and his report played an important role, I think
8 the trust takes issue with the characterization of the
9 examiner's report as the catalyst for resolution because
10 certainly the trust constituents --

11 THE COURT: Nobody could have predicted, at least I
12 didn't predict -- let me leave it at that -- that the impending
13 release of the examiner's report -- yes, I knew that,
14 obviously, I entered an order for mediation. And I knew that
15 Judge Peck was very actively engaged in mediation. And I set a
16 deadline for the completion of the examiner's report. I know
17 those were going on at the same time. And it was the wild card
18 what impact would the examiner's report have on the parties'
19 settlement positions.

20 And I certainly wasn't predicting a request; the
21 examiner's report was done. It was about to be filed, and the
22 parties to the mediation requested that the examiner's report
23 be placed under seal, over the objection of the U.S. Trustee,
24 for the short-time to allow -- I guess the parties had reached
25 an agreement in principle. It was a question of when it was

1 going to come on for a court hearing, at least until that time,
2 and I carefully balanced the arguments. I'd rejected -- I
3 think Mr. Masumoto was the one who presented the U.S. Trustee's
4 position about it. It was a difficult question for the Court,
5 but I did; I left it sealed because it was only for a short
6 period of time. Okay. And there probably are not many
7 situations where the sequence of events will happen exactly the
8 same way. But you think that because the report got sealed,
9 until the parties had cut their deal, that means that the
10 examiner and his professionals, that their compensation should
11 be cut?

12 MS. STADLER: No, certainly not. What the trust is
13 asserting is that in the context of this final review process
14 where the outcome of the case is determinative, in part, by the
15 reasonableness of the fees, the factors, the contributors --

16 THE COURT: You don't think this case has a good
17 out -- I wish that it had been resolved much earlier. It
18 certainly wasn't because of the examiner that it wasn't
19 resolved earlier. You think this didn't have a good outcome?

20 MS. STADLER: Well, I think the trust feels that the
21 recovery that the unsecured creditors are receiving is
22 adequate. I think they think better control of the
23 administrative expenses of the case could have made the
24 recovery better. I think that's probably true --

25 THE COURT: Probably true.

1 MS. STADLER: -- of unsecured creditors in most cases.

2 THE COURT: Yeah, that's probably true in most

3 cases --

4 MS. STADLER: Yeah.

5 THE COURT: -- too.

6 MS. STADLER: Yeah.

7 THE COURT: Yeah, I agree.

8 MS. STADLER: So I mean, in the end, Judge, I want to
9 make clear that the trust, again, is appearing today and
10 presenting these issues to the Court in its role as fiduciary.

11 THE COURT: Let me ask you this. Do you agree,
12 because I've made some comments about this from the bench
13 before, that the examiner and his professionals -- I'm not
14 saying a different standard of review, that I apply a different
15 standard of review in reviewing the applications of the
16 examiner and his professionals, but I've also commented it
17 seems to me the examiner and his professionals stand in a
18 somewhat different position in the case than the debtor's
19 counsel, the Creditors' Committee counsel, et cetera. They're
20 fulfilling a different role. They're not representing a
21 constituency. They had an assignment. Yes, it expanded,
22 appropriately, in my view. And they fulfilled that role. So
23 you successfully negotiated reductions in fees by Morrison &
24 Foerster and Kramer, Levin. I raise no issue about it. They
25 consented to those reductions. But don't you agree, that an

1 examiner, in a case, and the examiner's professionals stand in
2 a different relationship to the case than do other court
3 approved professionals in a case?

4 MS. STADLER: I agree that the examiner is in a
5 different role than the other case participants, exactly, for
6 the reason you've stated. They are not a pre-existing
7 participant as the debtor's counsel are, and they are not
8 representing a constituency as the Creditors' Committee is. I
9 disagree with the premise that that somehow changes the
10 treatment that those professionals, representing the examiner,
11 should get under Section 330. The trust's position is that
12 Section 330 of the Bankruptcy Code, all of the case law
13 interpreting it, ought to be applied to every case
14 professionals in the same way.

15 THE COURT: And I have. But let me ask you this.
16 When I ask you to identify areas with respect to Chadbourne
17 that you think were not previously raised, you raise the issue
18 about summer associates; that's off the table. You've raised
19 the issue about attorneys not yet admitted to the bar. I'm not
20 sure whether Mr. Masumoto had ever raised that issue with
21 Chadbourne or not, usually, the U.S. Trustee is not shy about
22 raising that issue. You raised the issue about typesetting. I
23 have Mr. Seife's response that deals with the reasons,
24 particularly given the time pressure and just the length of the
25 document, as to why. Are there other categories in your

1 objection that you think were not previously raised in the
2 case?

3 MS. STADLER: I think the issues that were previously
4 raised were not raised to the full extent that they were, but
5 there was some overlap in the remaining issues as I'm looking
6 down the list.

7 THE COURT: So the summer associates, off the table.
8 The not-yet-admitted attorneys, the typesetting you think those
9 are the only issues that weren't raised at all? I'm not so
10 sure about the not-admitted attorneys, but I don't --

11 MS. STADLER: Yeah, I would agree that there's
12 different definitions used in the different fee processes on
13 that one. But was it raised as a generic proposition, yes.
14 Was --

15 THE COURT: So you agree that the not-yet-admitted
16 attorneys was raised in the case?

17 MS. STADLER: By the U.S. Trustee, correct.

18 THE COURT: Okay, all right.

19 MS. STADLER: Yeah, and I think that --

20 THE COURT: So what I want to know is whether there
21 are areas in your objection that were not raised before.

22 MS. STADLER: I think we've covered those.

23 THE COURT: Okay. Is there anything else you want to
24 add with respect to Chadbourne?

25 MS. STADLER: No, Judge.

1 THE COURT: Okay.

2 Mr. Seife, do you want to respond?

3 Mr. Masumoto, do you want to get into this mix?

4 MR. MASUMOTO: Just briefly, Your Honor.

5 THE COURT: Go ahead.

6 MR. MASUMOTO: With respect to the issue -- Brian
7 Masumoto for the Office of the U.S. Trustee -- with respect to
8 the issue of unadmitted attorneys, I believe our pleads may
9 have referred them to an issue involving law school graduates
10 not yet admitted to the bar or that. But we, in fact, did
11 raise it and, in fact, although not to discuss settlement
12 issues, we took into account the different rulings by this
13 Court and reached, at least in our mind, an appropriate
14 resolution. And so they were included in the overall
15 reductions on a number of occasions. It may have been on one
16 interim period that we did not raise it. I don't know that the
17 amount was not significant. But as indicated in the chart that
18 I supplied, certainly the issue of unadmitted attorneys were
19 addressed specifically and were included in our pleadings.

20 THE COURT: Thank you, Mr. Masumoto.

21 All right, Mr. Seife, do you want to respond?

22 MR. SEIFE: Thank you, Your Honor, Howard Seife,
23 Chadbourne & Park. I think Your Honor covered in great detail
24 many of the things we would have raised in response to the
25 objections, so I'm not going to go over the objections that it

1 sounds like you've dealt with.

2 On the issue of unadmitted attorney fees, it clearly
3 was raised by the U.S. Trustee and that was part of our
4 resolution on the interim fees. I would just note each of the
5 unadmitted attorneys did pass the bar and, thankfully, have
6 been admitted.

7 THE COURT: Happily for them.

8 MR. SEIFE: So just the principle of the objection,
9 which I won't get into on the merits because it has been
10 resolved in prior fee applications, I would take exception to.

11 I think Your Honor noted our response on the use of an
12 outside vendor to perform, what people refer to typesetting,
13 but in this day and age nobody is setting type anymore. It's
14 really electronic document production. And it involves the
15 systems of word processing, changes of footnotes in sequential
16 numbers. It's a very sophisticated process. And as we noted,
17 fairly early in the process, we had so many different work
18 streams going with so many different parties producing their
19 sections of what would be a very long report. And the
20 difficulty of tying all those together, knitting them together,
21 forced us to discuss with the examiner going to an outside
22 service. We interviewed four different outside vendors. We
23 picked the one we thought would be most appropriate. The
24 examiner agreed, and that was disclosed in one of our interim
25 applications. It was approved and Chadbourne wrote a check to

1 the vendor. So --

2 THE COURT: I'm going to give you a confession --

3 MR. SEIFE: Yes.

4 THE COURT: -- Mr. Seife, and that is, I read every
5 page of the report on my iPad.

6 MR. SEIFE: Did you find any typos?

7 THE COURT: I don't remember because I downloaded the
8 PDFs onto my iPad, and it was easier carrying the report. That
9 isn't to say -- I'm not suggesting it was not appropriate to
10 have the printed copies, but I read it on my iPad.

11 MR. SEIFE: And I must say when the report was
12 released from the -- released by the Court, we had long lines
13 of parties in the case at our office seeking hardcopies, so I
14 think a lot of people found the hardcopy much easier to read
15 than the electronic version.

16 Are there any other of the objections that you'd like
17 me to address, Your Honor? I --

18 THE COURT: No. All right.

19 MR. SEIFE: -- think they've been dropped or --

20 THE COURT: Okay. So let me --

21 MR. SEIFE: -- dealt with.

22 THE COURT: With respect to the Chadbourne
23 application -- well, first, is there anybody else who wishes to
24 be heard with respect to the Chadbourne application?

25 Mr. Gonzalez, you want to be heard?

1 MR. GONZALEZ: Yes, thank you.

2 THE COURT: Sorry for not having recognized you
3 before.

4 MR. GONZALEZ: I'm Arthur Gonzalez, the examiner, in
5 the ResCap case. Much of what I was going to say, Your Honor,
6 I think you've dealt with, but I was struck by a few comments
7 being made by counsel for the trust. One of the points I
8 wanted to make, that is extremely frustrating to me in looking
9 at the objections that were filed, was that there's amnesia as
10 to what happened in this case by the trust. And who is the
11 trust? The trust is made up of members of the committee, at
12 least one holder of a significant piece of an indenture in
13 which the indentured trustee sat on a committee, and with that
14 knowledge this objection is filed.

15 They also have -- you noted that the trust is
16 successor-in-interest of the debtor. They have debtor's
17 counsel working for the trust. They have committee counsel
18 working for the trust. Either one of those two counsels could
19 put in context much of this for counsel for the trust here
20 today. And I just note that in a limited objection to
21 committee filed to the December fees when it saw this -- an
22 adjournment of examiner's fees, and the Court granted it. It
23 says very clearly on page 6 paragraph 7 that the committee made
24 a general review of each of the examiner's professionals'
25 monthly fee statements and interim fee applications. Further,

1 on page 6 paragraph 8, the committee stated that it believes
2 that the Liquidating Trust Board should have the opportunity to
3 perform such review post-effective date and is confident that
4 the Liquidating Trust Board, representing the interest of all
5 the creditors whose funds will be used to pay the fees of the
6 professionals, will be able to perform such review promptly.

7 So we know who was on the board. We know that the
8 committee intended that board to look at the fees. We know
9 that the committee members or the committee itself all looked
10 at the examiner's fees and, yet, when it came time to the work
11 plan object -- it's not really an objection with respect to the
12 examiner's work plan. It appeared to me in paragraphs 16
13 through 20 of the Chadbourne fee application, that there's an
14 assertion that I did not fulfill my self-imposed obligation to
15 promptly advise the Court and the parties as to any significant
16 variance in the estimate provided in the amended work plan.

17 Well, first of all, many examiners may not do budgets;
18 we did a budget. Many examiners who do budget may not
19 represent that they intend to promptly advise the Court and the
20 parties if there are any changes. So this trust, basically,
21 doesn't file a dollar-amount objection, but intimates that that
22 obligation wasn't satisfied, in spite of the fact, that we're
23 the only ones in the case, that I know of, that did a budget,
24 certainly submitted a budget.

25 We sat down in chambers conference with counsel for

1 the committee present, debtor's counsel present, the U.S.
2 Trustee present, obviously with the Court, explained every step
3 along the way in which fees were escalating. Initially, they
4 were escalating linearly -- and that may not be a word, but I
5 think -- they were escalating based on the amount of time we
6 were spending. Then it became -- when discovery exploded
7 around January 2013, it advanced to a much greater amount
8 proportionately, and we turned around and filed more and more
9 supplements. And ultimately, the last one had the numbers in
10 it.

11 But we have a board on the trust who sat on a
12 committee, who saw the monthly fee statements, knew what was
13 going on, and now represents -- and I just heard it from
14 counsel -- that better control of administrative expenses.
15 Well, where were they? They knew exactly what was going on
16 with us. They had more information about us than they probably
17 had about any other professional. As for the Court, because
18 the monthly fee statements themselves were not filed with the
19 Court under the monthly fee order, we provided the Court with
20 more information, more current information, than the Court
21 otherwise had on any other professional because the Court was
22 left with the interim fee applications, which naturally lag in
23 time in terms of information.

24 So with all of this information, the trust forgets it
25 and tries to cast a very negative image of the examiner's

1 professionals or the examiner really, here. But what do they
2 do with that? They don't object to the examiner's
3 professionals about that. They don't object to the examiner's
4 fees, which they well should have, because if I failed to live
5 up to that obligation this is where the adjustment should be
6 made, on my fees not theirs. I told Chadbourne what to do.
7 Mesirov had nothing to do with it. So in their view if they
8 weren't promptly informed, as I said I would, this is where
9 they should have come. But instead, they put it in an
10 objection to Mesirov and to Chadbourne just to try to get some
11 negative inference about the conduct of their performance of
12 their professional obligations. It made no sense to me. So
13 the better control they wanted in this case, then they should
14 have exercised better control.

15 In terms of percentage of recovery, I've heard this
16 before. It's kind of an interesting argument. I can
17 understand it from a creditor's standpoint. But as a very
18 practical matter, you cannot have an examiner do an independent
19 investigation if the examiner's professionals believe if the
20 case is not successful, we may not get paid. It just can't
21 happen. It needs to be dealt with in the scope of the
22 examination, not an afterthought and say, wait a minute, the
23 amount of your examination was a greater percentage of recovery
24 than we expected; therefore, you need to share the burden and
25 take a hit. That's exactly what's going on here. It would

1 undermine the independence of any examiner if that were --
2 first of all, that's not a standard anyway. It's not a
3 standard under 330. You don't look back and see what people
4 are going to recover and turn around and say what was
5 reasonable at the time you expended it, at least not if you're
6 retained on an hourly basis.

7 So I won't go through a lot of what I said because, as
8 I said, I think it was addressed. And just with -- we haven't
9 gotten to Mesirow's, but as a general statement, certainly with
10 respect to Chadbourne and Mesirow, their fees, I think, are
11 reasonable under the circumstances based upon the quality of
12 the report that was produced and the time frame it was
13 produced. And there's nothing, I believe, in this record that
14 would alter that with the exception of whatever modifications
15 were already made by the parties before the Court; nothing in
16 the case law, nothing in the statute that would really change
17 the outcome, whether or not the examiner's report had an impact
18 on the mediation, whether the examiner's report had no impact
19 on the case at all. It's really irrelevant to what the exam --
20 whether the fees were reasonable for the work that we did.

21 And it may not be a good thing for creditors to hear.
22 They may not be pleased about, but that's the reality of what
23 the standard is under 330. And with that, I will sit down.

24 THE COURT: Thank you.

25 MR. GONZALEZ: Thank you.

1 THE COURT: Anybody else who hasn't been heard that
2 wants to be heard?

3 Okay, with respect to the Chadbourne fees, first
4 section 330 of the Bankruptcy Code provides that and this is
5 a(1), "After notice to the parties in interest and the United
6 States Trustee and a hearing" and it goes on, the court may
7 award fees and expenses. So notice and a hearing is required,
8 and that's what we're having today. There was some issue, and
9 I don't think this was on the record. It was in one or more
10 telephone calls. There was an issue as to whether there would
11 be any evidentiary hearing with respect to today's hearing.
12 The law of the Second Circuit and elsewhere -- there's a
13 published Third Circuit decision, there's an unpublished Second
14 Circuit decision -- that the bankruptcy court has broad
15 discretion in deciding what procedure to follow. What the Code
16 required is notice and a hearing and an opportunity for parties
17 to be heard, and that's what's happened today.

18 Extensive briefing has been filed by the parties not
19 only with respect to Chadbourne but the other contested fees,
20 as well. And I've concluded it's unnecessary for the Court to
21 have an evidentiary hearing. That the record before me, the
22 extensive fee applications which the Court has reviewed, and
23 there have been some declarations that have been put in, the
24 trust put in an authorized reply that I received, I think,
25 yesterday, received an additional short brief and a

1 declaration. I've reviewed them, but no evidentiary hearing is
2 required.

3 The Court has made a thorough review. As I indicated
4 earlier, with respect to each of the interim applications, I
5 did make a thorough review. But with respect to the final
6 application, I have done that as well. I've made a final
7 review. And while all issues of fees at a final hearing, I
8 suppose, are fair game for objection and requests, so the
9 preclusion doesn't apply to what the Court decided on an
10 interim basis, the Court believes that absent unusual
11 circumstances, the Court should not -- and unusual
12 circumstances would be new issues that have been raised, new
13 facts that are raised that weren't raised at the time of the
14 interim applications -- that the Court is not required to go
15 back and revisit every decision that was made previously, every
16 resolution by the U.S. Trustee, which as I said before has done
17 a very good job throughout this case in reviewing fee
18 applications.

19 When I asked Ms. Stadler to identify what are the new
20 issues, I think there's one that we didn't talk about that I do
21 want to raise, and that's the -- after the examiner was
22 released from the case, there were fees that were incurred.
23 And that was an issue that was raised in the trust brief. We
24 haven't previously spoken about it; that was not previously
25 raised. I think that the Chadbourne response dealt with that

1 quite effectively. There were discovery requests that were --
2 requests may be the wrong term -- subpoena from the U.S.
3 Attorney in the Central District of California, for one, and
4 perhaps some others, where the trust -- the examiner and his
5 professionals had to respond to a subpoena from the United
6 States, and the fees were incurred and the expenses that were
7 incurred after.

8 And I think the response that Chadbourne filed, showed
9 that the order that discharged the examiner's professionals
10 specifically covered fees incurred. So I think that that
11 answer is really provided in the reply that Mr. Seife had
12 filed. I agree with it completely. And I was privy -- there
13 were conferences with, I believe, the U.S. Trustee was present
14 but also the U.S. Attorney from Los Angeles was -- the
15 Assistant U.S. Attorney in Los Angeles was on the phone for
16 those. We had discussions about how the subpoena was going to
17 be dealt with, and it's clearly appropriate, in my view, that
18 those fees are reimbursed, and that's included in this final
19 interim fee application, I believe.

20 So that wasn't covered before, Ms. Stadler, but that
21 was an issue that you raised that I think probably had not
22 previously been raised.

23 So the Court's review of all of the pleadings in this
24 matter and a review of the fee applications, for the
25 overwhelming majority of what the objections covered by the

1 trust, those were raised, considered by the Court, ruled on by
2 the Court, usually with a resolution by the U.S. Trustee, and
3 no facts have been brought to the Court's attention that would
4 suggest that they should be revisited. I'm not saying what the
5 precise legal standard, but I tried to be flexible in looking
6 at was there really anything in the trust objection that wasn't
7 really considered by the Court, or new facts or circumstances
8 brought to the Court's attention which should lead to reopening
9 the issue. I didn't believe there was.

10 So with respect to these new issues that have come up,
11 the issue about summer associates is resolved because
12 Chadbourne has withdrawn that from the application. With
13 respect to attorneys not yet admitted, that was raised by the
14 U.S. Trustee, resolved as part of the interim applications, the
15 Court is satisfied with the resolution that was made. There
16 isn't complete uniformity among the judges. I asked Ms.
17 Stadler -- and my research is the same as hers -- I have not
18 found any cases that deal specifically with the issue. I'll
19 save it for another day when I have to rule on it. Here, I
20 believe, I'm satisfied with the resolutions that the U.S.
21 Trustee reached throughout.

22 With respect to the typesetting, it's a large expense.
23 I believe that the Chadbourne reply has adequately dealt with
24 it, the time pressures under which they were operating; the
25 length of the report -- it wasn't just pure -- typesetting

1 really is a misnomer for what the process was going on -- the
2 review of the final report by Mesirow -- we'll get to the
3 Mesirow application separately -- in the Court's view, was all
4 appropriate.

5 The report -- it's an excellent work product. I don't
6 know, Mr. Seife, did you find some typos? I didn't look for
7 it, but --

8 MR. SEIFE: No. I was just concerned that in your
9 review, you may have found something.

10 THE COURT: Okay. It's an excellent report. It may
11 have been not foreseen as it was getting to its end that just
12 the impending report would have the effect it had on the case.
13 But I agree with Mr. Gonzalez that examiner's fees, examiner-
14 as-professional's fees can't be dependent on whether there's a
15 consensual resolution of the case or not. I would say there
16 have been cases, and I've written on this, when I have
17 declined -- I've over -- I've denied a motion for appointment
18 of an examiner. I did it in Dewey & LeBoeuf. And the argument
19 was that the statutory criteria for an examiner were satisfied.
20 I wrote an opinion, I won't revisit it now, but what was
21 crystal clear in Dewey & LeBoeuf was there would be nothing for
22 anybody if there were a complete exam, because of the cost of
23 the examination if it was to be meaningful.

24 So here, substantial creditors requested it. The
25 statute, I think, makes it mandatory in that circumstance.

1 This was clearly -- in light of the issues that had been raised
2 early in the case, the number of related-party transactions
3 with the nondebtor parent, it was clearly necessary and
4 appropriate. The scope was reviewed with the Court. It was
5 modified with the approval of the Court. There was a budget
6 that increased; it was reviewed with the Court. The Court and
7 the major parties-in-interest were all privy to what the
8 examiner was doing and what the expense, the growing expense,
9 the time, and so it's inappropriate now to be second-guessing
10 the judgments and the decisions of the examiner and his
11 professionals. And I believe the examiner did appropriately
12 supervise his professionals in a very substantial undertaking.

13 So for all of those reasons, I'm approving the
14 Chadbourne application for fees and expenses with the three
15 reductions that Mr. Seife specifically identified: 8,699
16 dollars for math errors, 5,757 dollars for the summer
17 associates, 46,600 dollars for document review had to do with
18 the level of the associates that were undertaking that work.
19 So those amounts will be deducted. I believe, if I'm correct,
20 Mr. Seife, the final figure is \$46,799,750.66?

21 MR. SEIFE: Yes. That's the right figure for fees,
22 Your Honor.

23 THE COURT: Okay. And the expense number -- total
24 expense is \$2,995,419.47.

25 MR. SEIFE: Yes, that's correct.

1 THE COURT: All right. With the three -- that's
2 not -- that doesn't include the three reductions that we've
3 talked about, does it, Mr. Seife? The three that I just --
4 that I cataloged?

5 Well, to get to the 46,799,750.66, that does.

6 MR. SEIFE: Yes. So that's the reduced.

7 THE COURT: And that's approved.

8 MR. SEIFE: Thank you.

9 THE COURT: The Trust's objections are overruled.
10 Let's go on. I want to try and get this all done.
11 Let's deal with Mesirow.

12 MR. SEIFE: Thank you.

13 THE COURT: Mr. Scheler.

14 MR. SCHELER: Good afternoon, Your Honor. For the
15 record, Brad Scheler, Fried, Frank, Harris, Shriver & Jacobson,
16 on behalf of Mesirow Financial Consulting, LLC.

17 Your Honor, I'm here today with my colleagues Lisa
18 Bebchick and Peter Siroka. Also in the court today are
19 representatives of our clients, Mr. Tuliano and Ms. Knoll. As
20 always, Your Honor, it's an honor and a privilege to be in your
21 courtroom.

22 I'm here to echo the sentiments that Your Honor has
23 already heard from the examiner, the Honorable Arthur Gonzalez,
24 as well as from fellow practitioner and friend, Howie Seife
25 from Chadbourne. Without being overly repetitious, Mesirow,

1 like Chadbourne, has had all of its charges subject to review
2 and scrutiny by the office of the United States Trustee, by all
3 parties-in-interest and, of course, by this Court.

4 Mesirow understands and appreciates the important
5 distinction between interim and final review. However, between
6 interim and final review, nothing has altered or changed the
7 results, efforts and efficiency of Mesirow in these cases,
8 including, with respect to Mesirow, complying fully with the
9 direction of its client the examiner.

10 There's nothing new. There's nothing improvident.

11 The work done by the examiner was first-rate, which
12 was not surprising, and the work done by the examiner's
13 professionals was also first-rate; also not surprising.
14 Indeed, as the Court has stated, the work of the examiner's
15 professionals should be commended and appreciated. The irony
16 here, as Your Honor has heard, is that the parties-in-interest
17 that have already directly benefited from the work that -- the
18 irony is that the parties who have benefited from the work are
19 now the parties that are in control of and are the
20 beneficiaries of the very Trust that is before the Court
21 objecting. That they are pursuing objections against the
22 examiner's professionals is both ironic and painful. And we
23 understand that while the Trust professionals are duty bound to
24 adhere to the wishes and direction of their client, sometimes,
25 Your Honor, as officers of the court, it's also our duty to

1 push back. This may be one of those instances, Your Honor.

2 They're simply not right under these circumstances to
3 pursue these objections against the examiner's professionals,
4 especially given the positive results that these cases have had
5 for the Trust and for all the parties-in-interest. First, the
6 examiner did extraordinary work here, as I said. Secondly,
7 these are all, as Your Honor has observed, after-the-fact
8 objections, and the Trust's attempts to take a second or a
9 third bite at the apple is not appropriate. It will also
10 potentially have the effect of impairing the ability of the
11 United States Trustee to reach resolution of issues raised with
12 respect to interim fee applications. Parties want to know that
13 when they come to a landing with the approval of the Office of
14 the United States Trustee and the approval of this Court, they
15 are done. And that incentivizes reductions, Your Honor.

16 Third, Your Honor, I worry a bit that if there's any
17 embrace of the Trust's objections here, it would put a club in
18 the hand of parties-in-interest in future Chapter 11 cases and
19 may have a chilling effect on the work of examiner's
20 professionals in those cases. But most importantly, Your
21 Honor, we know and understand that this Court always has the
22 right to and must hold all professionals to the highest of
23 standards which we in Mesirow completely embrace. It is wrong
24 for the Trust to come in here, under these circumstances and in
25 their own self-interest, to endeavor to work a baseless

1 forfeiture of the professionals and to challenge the work that
2 was done by the Office of the United States Trustee and by this
3 Court.

4 I understand, Your Honor, that the Court has reviewed
5 the pleadings. I know well that you take to heart all that is
6 submitted to you. Given the overlap between us and Chadbourne,
7 I will not delve further into the arguments unless the Court
8 desires us to do so, or until Ms. Stadler has presented --

9 THE COURT: Could you -- Mr. Scheler, there were
10 certain reductions that Mesirow has agreed to make. Am I
11 correct?

12 MR. SCHELER: Yes, Your Honor.

13 THE COURT: Could you itemize those?

14 MR. SCHELER: Well, Your Honor, overall, in the
15 entirety of the case, we reduced in its --

16 THE COURT: No, I don't want -- that's not what I'm
17 asking you about. I know that there have been reductions at
18 various points in the case. But when I read the response,
19 there were certain additional adjustments that Mesirow has
20 agreed to make.

21 MR. SCHELER: Your Honor, it's only a de minimis, I
22 think, 256 dollars with --

23 THE COURT: All right.

24 MR. SCHELER: And Your Honor, I want to clarify one
25 other thing. Our final request, the actual amount is

1 39,472,705. It was originally 34,492. In the colloquy between
2 you and Mr. Masumoto, and in your numbers, the 20,000 dollars
3 was not reduced; that was the subject of the final interim,
4 which was in the amount of 57,179, which we reduced by the
5 20,000. So the number that should be --

6 THE COURT: Give me -- what's the number on the table?

7 MR. SCHELER: What it should be now is 39,472,705.

8 THE COURT: Okay. And that's reflected in the chart I
9 was given this morning.

10 MR. SCHELER: Yes. And the expenses are the 344,747.

11 THE COURT: Okay.

12 MR. SCHELER: Your Honor, both myself and Ms. Bebachick
13 can go through any of the details. But I think at this point,
14 perhaps, it is wise and prudent for me to defer to the Trust
15 counsel.

16 THE COURT: Yeah, let me hear from Ms. Stadler.

17 MR. SCHELER: Thank you.

18 MS. STADLER: Thank you, Judge. Adopting the
19 methodology from the earlier report, I'll focus only on those
20 items that were not previously addressed by the United States
21 Trustee.

22 THE COURT: Thank you.

23 MS. STADLER: The Trust has identified some duplicate
24 time entries. It's unclear whether they're the same ones that
25 were identified by the United States Trustee or not. The Trust

1 did identify 229,000 dollars in rate increases. I do not
2 because that that issue was raised by the United States
3 Trustee.

4 The Exhibit B that we've prepared showing the time
5 increment practices of a particular timekeeper and the request
6 of reduction for that, I do not believe was raised by the
7 United States Trustee.

8 THE COURT: Just cover that. So you're talking about
9 the seniority increases during the course of the case? Is that
10 what you're referring to? So when people move up a year, their
11 billing rate --

12 MS. STADLER: Right.

13 THE COURT: -- goes up. That's what you're referring
14 to?

15 MS. STADLER: The rate increases -- the issue is the
16 statement in the retention materials that rate increases will
17 be -- would be disclosed by affidavit, and Exhibit A-2 to our
18 objection itemizes people whose rates changed throughout the
19 engagement --

20 THE COURT: But my question is --

21 MS. STADLER: -- for which there was no disclosure.

22 THE COURT: In other words, rate increases, one would
23 ordinarily think first year in a law firm, first-year
24 associates are billed at X dollars. If the firm increases its
25 rates so that first-year associates are now billed X-plus-

1 fifty, that's a rate increase.

2 Is it your view that a maturity increase -- so when
3 someone goes from a first-year associate to a second-year
4 associate, their rate goes up. I didn't understand the
5 disclosure of any rate increases to cover seniority increases.

6 MS. STADLER: That may just be a nomenclature issue,
7 Judge, but from the perspective of the clients, when rates go
8 up, rates go up, and they affect the bottom line. And a case
9 of this length --

10 THE COURT: So when someone's a third-year associate,
11 they've got a lot more experience than a first- or second-year
12 associate. And that's ordinarily reflected in a higher billing
13 rate. That's true in your firm, isn't it?

14 MS. STADLER: Ordinarily. But I --

15 THE COURT: Is that true in your firm? Are there
16 seniority increases in your firm?

17 MS. STADLER: There are. But they're not imposed in
18 the middle of an engagement without --

19 THE COURT: Is that right?

20 MS. STADLER: -- consulting the client.

21 THE COURT: So when an associate who was a first-year
22 associate when they started working on the matter and they
23 become a second-year associate or the matter continues on, they
24 become a third-year associate, you don't make any increase in
25 their rates to reflect their seniority?

1 MS. STADLER: Not without disclosing it --

2 THE COURT: Really?

3 MS. STADLER: -- to the client.

4 THE COURT: Okay. And so when the statement for
5 professional services comes in and it shows the hourly -- shows
6 the professional, the number of hours, and the hourly rate, is
7 that a disclosure to the client?

8 MS. STADLER: No. I mean, I don't know that my firm's
9 practices are before the Court, but I will tell you that --

10 THE COURT: I'm just asking a question.

11 MS. STADLER: Yeah. The way that we do our engagement
12 letter says, we typically raise rates consistent with the
13 market and consistent with the expanding experience of our
14 associates.

15 THE COURT: Um-hum.

16 MS. STADLER: But my engagement letters that I sign
17 have a sentence in them that says we will not do so without
18 consulting with you first.

19 THE COURT: Okay, all right.

20 MS. STADLER: And that was in the retention agreement
21 here.

22 THE COURT: Okay. So what other issues?

23 MS. STADLER: The time increments issue --

24 THE COURT: You raised the issue that people
25 miraculously had half-hour or full-hour time increments.

1 MS. STADLER: Right. And I --

2 THE COURT: You don't think that was considered by the
3 Court when I reviewed stacks of time records?

4 MS. STADLER: I don't have any way of knowing that.

5 THE COURT: Or by the -- so you don't think the --
6 we'll find out from Mr. Masumoto whether --

7 MS. STADLER: I did not see that issue itemized on Mr.
8 Masumoto's chart. I did just get it this morning so I may have
9 missed it. But no, I didn't -- I don't think that was on
10 there.

11 THE COURT: Okay.

12 MS. STADLER: The travel issue we've talked about in
13 the context of another professional; that's merely applying one
14 of the Court's earlier rulings.

15 THE COURT: So I'm looking at Mr. Masumoto's chart
16 that he handed up to the Court.

17 MS. STADLER: Right.

18 THE COURT: I'm sure he gave you a copy this morning.

19 Okay, we're going to have to take a recess because my
20 ECRO operator has to leave at 1:30. We're going to get a -- I
21 was trying to avoid having to come back, taking a lunch break,
22 and -- what's your pleasure? I would just as soon push through
23 as soon as we get another ECRO operator. Mr. Seife?

24 MR. SEIFE: That would be our preference, Your Honor.

25 THE COURT: Okay. So let's take a fifteen-minute

1 recess and we'll pick up -- I apologize, Ms. Stadler, for
2 having to interrupt you.

3 Okay? Thank you.

4 (Recess from 1:27 p.m. until 1:48 p.m.)

5 THE COURT: Okay. Please be seated. Mr. Scheler, I
6 think you were -- are you done?

7 MR. SCHELER: Oh, no, I --

8 THE COURT: Oh, okay. I'm sorry.

9 Go ahead, Ms. Stadler.

10 MS. STADLER: Thank you, Judge. I think we were
11 just -- we left off on the issue of travel. But I do want to
12 loop back quickly. During the break I took a look at
13 something. We talked about the rate increases and the
14 seniority adjustments. And I do just want to note that the
15 seniority adjustments identified in Exhibit A-2 on the Mesirow
16 objection, which is 229,000 dollars, we applied the same
17 methodology to all of the professionals. So we did make that
18 finding in Chadbourne. So Chadbourne alleged, or apparently
19 did not adjust for seniority the way that Mesirow did, to the
20 extent that's pertinent to the inquiry.

21 With respect to the travel --

22 THE COURT: Yes. I do have a question. I didn't ask
23 Mr. Scheler about it, but I do have a question about travel.
24 Go ahead.

25 MS. STADLER: I guess my only point was that I think

1 there is a universe of time in there that was not objected to
2 by the United States Trustee. I believe the United States
3 Trustee objected to travel expenses.

4 We've talked about --

5 THE COURT: So if you look at what Mr. Masumoto handed
6 out, the fourth interim period, it shows that the Trustee
7 objection included travel time and expenses.

8 MS. STADLER: I stand corrected. It does say travel
9 time there.

10 THE COURT: But it doesn't say it -- it doesn't say
11 travel time for the other interim periods.

12 MS. STADLER: Correct.

13 THE COURT: And, actually, that I do have --

14 MS. STADLER: Or for the final, I guess.

15 THE COURT: Yes. Well, correct. And I do have a
16 question, because I've tried to be consistent throughout the
17 case, that where professional staff ResCap with people from
18 other offices outside of New York, that their expenses in New
19 York, their non-working travel time is not compensable. And
20 it's not clear to me what Mesirow did in that regard.

21 MS. STADLER: It isn't clear to me either, although I
22 will note that most of the timekeepers we identify in the
23 exhibit do have offices in Chicago, not New York. So I believe
24 that those entries on that exhibit do fall into the category
25 that you previously ruled on.

1 THE COURT: So, I mean, look, if they were traveling
2 to Los Angeles --

3 MS. STADLER: Right.

4 THE COURT: -- to do interviews my fifty percent rule
5 for non-working travel time applies. If they're coming to New
6 York to work it's not reimbursable.

7 MS. STADLER: Right. Exhibit G is a nine-page
8 exhibit. Just eyeballing it looks to be mostly -- well, all
9 travel to and from New York. From different places. Mostly
10 Chicago, but some Boston, Miami, and Atlanta.

11 So obviously the time entries are what they are. It
12 doesn't say for a deposition or for a hearing or for a meeting.
13 But I think the identification of the items on Exhibit G
14 reasonably fall within that ruling.

15 THE COURT: Yes. And I must say that it was this area
16 of the travel expenses that you raise in your objection. I'm
17 going to want to hear from Mr. Masumoto, because for the fourth
18 interim period he does identify travel time and expenses as
19 having been covered. If it was part of the resolution in that
20 period I'm not going to double ding them by doing it again.

21 MS. STADLER: Right.

22 THE COURT: But that was the one area in your
23 objection on Mesirow -- I'm not saying the only one -- but that
24 was one area where I have questions. I didn't ask Mr. Scheler
25 before, but after you speak I'll get him a chance to address

1 it.

2 MS. STADLER: Continuing down the list, we talked
3 about the typesetting fees. I appreciate the clarification
4 that the presentation provided regarding what typesetting
5 actually means; apparently not the kind of typesetting we do
6 when we file those little briefs with the Supreme Court.

7 THE COURT: Let me just say. With respect to the non-
8 working travel time, you identify \$565,401.50, so it's a big
9 ticket item.

10 MS. STADLER: It is. And what I think we did, and let
11 me double check the exhibit, is it was reduced by fifty
12 percent. So the objection amount, which is 282,000 dollars --

13 THE COURT: Right.

14 MS. STADLER: -- is the other 50 percent.

15 THE COURT: Yes. And -- okay. I'll hear what Mr.
16 Scheler has to say about it. I apply the fifty percent for
17 non-working travel time; if somebody in New York is going to
18 Chicago to do an interview or a deposition or something, yes,
19 that rule applies. But what I've tried to be consistent in the
20 case is staff outside of New York, that's fine, but don't
21 charge the estate for either non-working travel time, the
22 expenses while you're in New York, et cetera.

23 MS. STADLER: Right. The next group of categories,
24 and these are all in Exhibit I to our objection, these, I
25 think, do fall into the general heading that, using the

1 Trustee's nomenclature, is "staffing issues", I think, is the
2 way they refer to it.

3 You know we've broken that down a little bit more,
4 identified research that was performed at a high hourly rate
5 that we believe could have been done at a lower rate.

6 Professional are analyst tasks that were --

7 THE COURT: So I'll make another confession.

8 MS. STADLER: -- done at high rates.

9 THE COURT: I used to do a lot of my own research when
10 I was in practice, because I thought I could do it better than
11 those people.

12 MS. STADLER: Probably could.

13 THE COURT: My hourly rate was higher, but in the end
14 I thought it cost people a lot less money.

15 MS. STADLER: And probably faster.

16 THE COURT: I knew where I was starting from. So I
17 don't -- the fact that more expensive timekeepers do research
18 is not enough. I mean, it doesn't necessarily fall, flow down,
19 only first-year associates should do legal research.

20 MS. STADLER: No.

21 THE COURT: That's nonsense.

22 MS. STADLER: Certainly not. I would agree with that.
23 I would just --

24 THE COURT: I bet you do some of your own legal
25 research too, don't you?

1 MS. STADLER: Usually, because it's -- I'm faster,
2 yes.

3 THE COURT: Okay.

4 MS. STADLER: But I would say, looking at Exhibit I-1,
5 some of the descriptions on there, "Banking Industry
6 Delinquency", some of the descriptions don't really suggest any
7 particular level of sophistication is required. So the
8 position is not senior people should never do research. It's
9 that basic research should be performed at a lower level. And
10 some of what's on Exhibit I certainly appeared to be more basic
11 market conditions research than anything else.

12 The next category, specific category of tasks, is
13 "Paraprofessional Staffing". That's Exhibit I-2, amounting to
14 about 98,000 dollars. These are people charging upwards of 600
15 dollars an hour to create this or -- and input materials into
16 this synthesis document system.

17 And I understand from the application materials that
18 Mesirow, as a representative of Chadbourne, in this instance
19 was keeping a document repository and was charged with keeping
20 it updated with the documents. It's unclear to the Trust why
21 maintenance of that database needs to be done at rates of 695,
22 755, and 800 dollars an hour. And that is Exhibit I-2.

23 Exhibit I-3 is similar. These are tasks performed by
24 analysts that could have been performed by associates. Many of
25 them are the same involving the synthesis document: uploading,

1 identifying documents, flagging documents, et cetera.

2 And so those are the three categories of staffing
3 issues that the Trust has identified. And, again, unclear to
4 me whether the United States Trustee's generic staffing
5 objection would have encompassed those areas or not.

6 Finally the clawback issue. We have discussed and,
7 again, I think adequately understand the Court's ruling in that
8 regard. And then the multiple attendees certainly was an issue
9 that the Trustee did raise. But, again, no indication of what
10 the actual allocation on that deduction would have been.

11 THE COURT: Okay. So, by my reckoning you've raised
12 five issues. Billing increments of half-hour or one hour, and
13 I think you said something like twenty percent of the entries
14 were in half-hour increments. Rate increase, seniority
15 adjustments, travel, staffing issues, high billing rates for
16 people doing research and multiple attendees. Those are the
17 five issues that you're raising now.

18 MS. STADLER: Yes. And let me just get a quick
19 clarification for you on the time increments. We flagged this
20 particular timekeeper not because it was more than twenty
21 percent of the time it was half and whole hours. It was more
22 than forty percent of the time.

23 THE COURT: Okay. All right. All right.

24 Mr. Masumoto, tell me what you've -- of these five
25 issues that Ms. Stadler is raising now, can you tell me which

1 ones were part of the discussions for the first four interim
2 periods?

3 MR. MASUMOTO: Yes, Your Honor. With respect to the
4 billing increments, we don't have a hard and fast rule in terms
5 of percentages. I have, certainly, and my colleagues have
6 certainly noted where we thought someone was billing in half
7 and whole hour increments inappropriately. The most obvious
8 case, if everything is billed in whole and half hour
9 increments, but we don't have a set percentage that triggers an
10 objection as being an improper percentage. So I can say that
11 in this case, certainly, as we reviewed the fee application it
12 didn't trigger an objection on our part on that issue.

13 THE COURT: Okay.

14 MR. MASUMOTO: With respect to rate increases, usually
15 the language we require in the retention order requests that
16 rate increases be disclosed. We don't distinguish between
17 regular market rate increases and seniority, although as a
18 general rule we believe that at the current time, prior to the
19 guidelines, that both increases should be disclosed.

20 As far as the --

21 THE COURT: Well, what does that mean when you say
22 disclosed? And the reason I focus on it, you get the billing
23 records. I got the billing records. And it shows for each
24 timekeeper what the hourly rate is. So if there's been an
25 increase, there's not a separate document I look at to see

1 well, this timekeeper's rate was increased from x to y. I'd
2 have to look and figure it out, compare an earlier period with
3 the later period. What is it that you require?

4 MR. MASUMOTO: Generally a notice that's filed on the
5 record. Essentially, a form of the supplemental disclosure
6 that's required when the rate increase occurs.

7 THE COURT: Even for seniority increases? I was
8 certainly aware that that was your -- that your office's policy
9 with respect to -- I'll call it across the board "rate
10 increases". So the first-year associates, rather than being
11 400 now become 450 or -- I'm just picking random numbers.

12 MR. MASUMOTO: Your Honor, the language in the
13 retention order doesn't specify, and we had not really made
14 that specific determination, but, as a general rule we, as I
15 said, since it was intended to be general, we didn't
16 distinguish between market --

17 THE COURT: Okay. Did you raise this issue with
18 Mesirow?

19 MR. MASUMOTO: Not the disclosure issue.

20 THE COURT: Okay.

21 MR. MASUMOTO: No, Your Honor.

22 THE COURT: All right. What about traveling?

23 MR. MASUMOTO: With respect to travel, as indicated on
24 our chart, I guess we did raise it during one interim. It does
25 not appear to have been raised in all of the interim periods,

1 but we did address the travel issue at least on one interim
2 period.

3 The staffing issue, again, as mentioned, ours is
4 somewhat general. I don't believe that our staffing
5 inefficiency category necessarily focuses on any one specific
6 area. It may usually be if a senior person is doing a routine
7 matter. It may address some research issues, although, again,
8 I'm not sure if in this particular case those issues were
9 specifically raised.

10 THE COURT: It was the depths of the recession that --
11 usually in smaller cases rather than the bigger cases -- I was
12 reviewing fee applications, and I would see partners billing
13 time for things that probably should have been done by
14 paralegals. And I regularly flagged those items and disallowed
15 them. But in the bigger cases that hasn't seemed to have been
16 as big a problem.

17 MR. MASUMOTO: Yes, Your Honor. And I think our
18 office experiences similar things. Typically it would be
19 purely administrative things. If those were being done by high
20 billing partners we would certainly object.

21 As to the issue regarding research, it is, sort of,
22 discretionary, depending on the nature of the research and
23 who's doing it.

24 I do believe that with respect to multiple attendees
25 we did raise that, at least on some of the applications. I'm

1 not sure if in every single interim period. But the multiple
2 attendee issue is one that we fairly frequently and routinely
3 raised.

4 THE COURT: Okay.

5 MR. MASUMOTO: Thank you, Your Honor.

6 THE COURT: Thank you very much.

7 All right. Mr. Scheler, was it miraculous that one
8 timekeeper, in particular, a very, very large number of his
9 entries were in half-hour increments?

10 MR. SCHELER: No, Your Honor. I have to raise that
11 with respect to travel --

12 THE COURT: I was going to go through my list in
13 order.

14 MR. SCHELER: No, but it is important. I'm going to
15 come back to travel with you.

16 THE COURT: I know. On travel you put a four-hour
17 cap.

18 MR. SCHELER: A cap. So what you're seeing is the
19 consequence of the cap.

20 THE COURT: Am I really? I mean, I --

21 MR. SCHELER: Yes.

22 THE COURT: I thought there were entries that are a
23 lot less than the four hours

24 MR. SCHELER: There were some half-hour entries as
25 well. But, Your Honor, in the main what we can say is that out

1 of the multitude of parties -- and there were -- I think, six
2 of the twenty entries or so were with respect to travel.

3 THE COURT: Okay.

4 MR. SCHELER: Others were just -- I just -- Your
5 Honor, there's no chicanery going on here --

6 THE COURT: Okay.

7 MR. SCHELER: -- in any way, shape, or form.

8 THE COURT: Well, that's what you're saying now.

9 MR. SCHELER: Yes.

10 THE COURT: Okay. What about rate increases?

11 MR. SCHELER: Rate increases, Your Honor we had in
12 place that we would not do any market increases. So we capped
13 throughout the engagement. We did not undertake with the
14 examiner to cap maturation increases. And I would note that
15 the maturation increases occurred in April, so we're talking
16 about a six-week period of maturation increases.

17 Your Honor, that was fully understood and discussed
18 with the examiner, and, again, from the point of view of
19 Mesirow our understanding was that we were capping on market.

20 THE COURT: Okay. So -- go ahead.

21 MR. SCHELER: Yes. I think other of the professionals
22 in the case also had such rate increases.

23 THE COURT: I'm not so sure about that. I think some
24 of them agreed not to do that.

25 MR. SCHELER: I think FTI did. I think FTI and Alix,

1 as well.

2 THE COURT: Okay. All right. So travel was a big --
3 that was one that I meant to ask you about before. I was going
4 to -- I had a note to ask you about. It did seem to me -- was
5 Mesirow permitting its timekeepers to bill fifty percent for
6 non-working travel from wherever they were to New York?

7 MR. SCHELER: I think, Your Honor, once Mesirow became
8 aware that your ruling was that that kind of travel was not
9 reimbursable at the fifty percent rate they eliminated that.
10 But there was a period in the case where there was some travel,
11 and what has happened here is the Trust identified the
12 aggregate of those, but what the Trust hasn't accounted for is
13 that there was other travel elsewhere where we imposed the
14 four-hour cap. So it's not --

15 THE COURT: Well, I don't -- it's not a tradeoff as
16 far as I'm concerned, Mr. Scheler.

17 MR. SCHELER: But in the aggregate dollar amount there
18 is a differential, Your Honor.

19 THE COURT: Well, what I am going to need to be
20 advised about is whether the total fees which Mesirow is
21 seeking approval for includes amounts for non-working travel to
22 New York by people from other offices. If it's in there it has
23 to come out of there.

24 I tried to be consistent throughout the case. Look,
25 there are not that many cases that are so overwhelming that --

1 where the professionals needed to staff up with people from
2 other offices. Whether they're -- and I respect their
3 arguments that they brought people, they assigned people with
4 the appropriate expertise. Fine. I'm all in favor of staffing
5 from other offices. The only thing that I imposed for this
6 case, and there could be cases where the circumstances are
7 completely different that I might relent.

8 I think in this case there was an expert witness who
9 was testifying who came from another place, but his role was as
10 an expert witness. And I permitted the billing for the
11 expenses to New York. And I don't think there was any non-
12 working travel time.

13 But in this case I did, early on, announce that I
14 would not reimburse for non-working travel or expenses for
15 professionals from other offices coming to New York. If they
16 went somewhere else to do an interview or something or document
17 review, that's a different story.

18 MR. SCHELER: Your Honor, may I suggest the following?
19 Could we have an authorization and approval of the final
20 compensation net of 250,000 dollars in effect as a holdback,
21 subject to our --

22 THE COURT: Let's see where we come out --

23 MR. SCHELER: Okay.

24 THE COURT: -- on the other issues, okay? I think Ms.
25 Stadler had indicated there was what -- 280,000 dollars that

1 she identified of --

2 MR. SCHELER: But that doesn't take into account the
3 fourth interim.

4 THE COURT: Okay. Well, let's -- we'll -- I
5 understand your request. Let's try and finish up.

6 What about on the staffing issues of higher billing
7 rate people doing administrative or research tasks?

8 MR. SCHELER: Your Honor, as you know well, people
9 were under the gun. There was no intention to do anything
10 other than work efficiently. This was very senior intensive
11 work, most especially in the latter periods, and the work that
12 was being done, both with respect to what Ms. Stadler
13 identified and otherwise, was achieving greater efficiencies in
14 terms of doing the work.

15 So with respect to anywhere in the ordinary course on
16 the interim basis, we certainly discuss any concerns that the
17 U.S. Trustee had. And I think that we performed fairly and
18 reasonably.

19 THE COURT: All right. What about the multiple
20 attendees?

21 MR. SCHELER: Your Honor, on multiple attendees I
22 don't think we did anything unusual. We went through all of
23 that with the Office of the United States Trustee for certain.

24 And the other thing I would add, Your Honor, with
25 respect to multiple attendees, we were working on a multitude

1 of issues in terms of putting together the report and the
2 examiner's work. So what you had is, in an interesting way,
3 Your Honor, you had a comprehensive team working across a broad
4 range of issues.

5 At one point it was suggested, by way of example, that
6 Mesirow didn't have anything to do with the writing of the
7 report. Mesirow wrote whole sections of that report, and it
8 had various teams assigned to that.

9 THE COURT: I'm not questioning that, Mr. Scheler. Or
10 I'm not questioning the appropriateness of Mesirow working on
11 editing, reviewing this very lengthy comprehensive report.

12 MR. SCHELER: But even writing portions of it, Your
13 Honor, in various sections.

14 THE COURT: I'm not questioning --

15 MR. SCHELER: So that's why you would have multiple
16 members of a team working on that, because the parts were
17 integrated.

18 THE COURT: Anything else you want to add?

19 MR. SCHELER: I guess the only thing that I would note
20 is that there is the best practices memo that the Lehman
21 examiner sent to the Office of the United States Trustee, which
22 by its very terms, which has become, sort of, a yard marker,
23 contemplates this kind of staffing. So I would just say
24 that --

25 THE COURT: What kind of staffing?

1 MR. SCHELER: Where you would have multiple
2 individuals present at meetings. That's a norm for this kind
3 of work.

4 THE COURT: Okay. Ms. Stadler, is there anything you
5 want to add?

6 MS. STADLER: Just to --

7 THE COURT: Yes. I'll give -- Mr. Gonzalez wants to
8 be heard too. Let me hear from Mr. Gonzalez, and then I'll
9 give you a chance to respond.

10 Go ahead, Mr. Gonzalez.

11 MR. GONZALEZ: Thank you. Arthur Gonzalez, the
12 examiner. I just want to mention something about rates. It
13 seems to me, and this is the way I've looked at it, when a firm
14 publishes their rates they don't publish them by individual.
15 They publish them by category. Rates are categorized: first
16 year, second year, fifth year, partner, et cetera. So when
17 someone moves from one category to another it's hard to imagine
18 that should be looked at as a rate increase. Because the rate
19 didn't increase.

20 THE COURT: I mean, I have to say that this is the --

21 MR. GONZALEZ: My response is really more focused on
22 what Mr. Masumoto had to say about a general category that
23 maturation in his mind, or the Office's mind, is part of the
24 rate increase structure. It doesn't make sense to me from the
25 standpoint when professionals file their applications and say

1 our rates range from 200 dollars an hour to 1,000 dollars an
2 hour, they're talking about categories and not which individual
3 gets paid that rate.

4 THE COURT: Yes. I was going to say in the last seven
5 and a half years no one, including Mr. Masumoto or anybody in
6 his office, has raised the issue with me about any increases,
7 maturation increases being inappropriate.

8 Yes, I've seen the requirement that there be notice in
9 advance of any rate increases, but I've interpreted that to be
10 the general rate increase where you increase each -- or, if not
11 every increase, when first-year associates go from x to x plus
12 something.

13 Okay? That is what I've usually considered as the
14 rate increase, not the -- I guess it's echoing what you've
15 said, Mr. Gonzalez, that --

16 MR. GONZALEZ: Yes. See, I think the argument would
17 be when someone becomes a fifth-year associate the question
18 really is why is the fifth-year associate doing this work, not
19 necessarily should they get paid at a fourth-year rate.

20 THE COURT: All right.

21 MR. GONZALEZ: Thank you.

22 THE COURT: Thank you, Mr. Gonzalez.

23 Ms. Stadler?

24 MS. STADLER: Just wanted to touch on two points that
25 Mr. Scheler made. On the time increments issue I just glanced

1 at Exhibit B, and I found, not scientifically, about five time
2 entries that are 4.0 hours.

3 THE COURT: You know, sometimes people really do spend
4 four hours --

5 MS. STADLER: Yes.

6 THE COURT: Oh.

7 MS. STADLER: But those are --

8 THE COURT: You're saying that's the travel --

9 MS. STADLER: Those are travel.

10 THE COURT: Okay.

11 MS. STADLER: I think those are the ones --

12 THE COURT: All right.

13 MS. STADLER: -- that are attributable to the travel
14 issue.

15 THE COURT: All right.

16 MS. STADLER: So four out of however many, seventy-
17 nine, on there.

18 The other point that I wanted --

19 THE COURT: You're suggesting that somebody is being
20 dishonest when they're writing down their time in half-hour
21 time increments.

22 MS. STADLER: I think dishonest may be too hard a
23 word. I think rounding up, possibly, is a better way to say
24 it.

25 THE COURT: Sometimes rounding down.

1 MS. STADLER: Yes. Maybe. On the multiple attendees
2 issue, I just wanted to point out that Exhibit K, which is the
3 calculation of the objection amount, which is 662,000 dollars,
4 lists the attendees at the various meetings and objects only to
5 the fourth and fifth participants. So, in essence, it applies
6 the rule that Your Honor has -- or the guideline Your Honor has
7 suggested for in-court participation to internal meetings.

8 And --

9 THE COURT: But, you see, there I didn't announce a
10 guideline for internal meetings. The issue arose in ResCap.
11 It arose, I think, in MF Global, perhaps in Borders where I'd
12 see a flock of attorneys from a debtor or creditors, debtor's
13 firm or creditors' committee firm in court, most of them not
14 saying a word at any point in the hearing. And that's what led
15 me to -- and they weren't -- occasionally they'd pass a note,
16 but for the most part they were sitting there absorbing. And
17 I'm more than happy to have them here. Just don't charge the
18 estate for it.

19 I'm not sure that I would get to the same position
20 with respect to three or more people attending an internal
21 meeting, because they all may well have a role to play and
22 receive directions as to what they do carrying forward.

23 So I never did adopt -- and you were fair about it in
24 your papers. You acknowledged that you were seeking to apply
25 what I said for in-court presence to internal meetings. I

1 didn't adopt that for internal meetings. I could look at time
2 entries and see -- if I looked at a bill and saw that there
3 were nine people at a four-hour meeting I'd have real questions
4 about it, and Mr. Masumoto would have had a real question about
5 it too. It could be a lot less than nine, but I would be -- I
6 am reluctant to say that the guidance -- and I think even in
7 court I said look. If there are three more people here in
8 anything that they are actually working on, fine. Charge for
9 it. Okay? I didn't just say automatically you're not going to
10 charge.

11 So I can remember having some fairly large team
12 meetings in big cases where we had a lot of people there, and
13 it was important that they be there. So I can't categorically
14 say that there was anything wrong or inappropriate in having
15 more people at a meeting.

16 That I'm not faulting you for raising, okay? It
17 raises questions.

18 MS. STADLER: Right. And, I mean, the only point of
19 my response is that the individual meetings are all identified
20 in Exhibit K, as are the attendees and the lengths of time the
21 meetings took. So that information is there.

22 THE COURT: So what I used to look for to see if six
23 people attended the same meeting and everybody had a different
24 amount of time down for it.

25 MS. STADLER: That would have showed up on the billing

1 error, I think. But, yes, I mean, there --

2 THE COURT: May I ask you this?

3 MS. STADLER: I don't see any nine-hour meetings.

4 THE COURT: With respect to the half-hour increments.

5 MS. STADLER: Yes.

6 THE COURT: Was this focused on one particular
7 timekeeper?

8 MS. STADLER: The time is all one timekeeper, yes.

9 THE COURT: Who's the timekeeper?

10 MS. STADLER: Ben. Ben Wei.

11 THE COURT: Spell the last name.

12 MS. STADLER: W-E-I. And that, I just would note, is
13 not because we chose to single that individual out. We
14 filtered for, like we said, disproportionate use of the time
15 increments, and that's the individual who used it more than
16 forty percent of the time.

17 THE COURT: Okay. What was his billing rate?

18 MS. STADLER: Eight hundred and fifty-five dollars an
19 hour. Title is managing director.

20 THE COURT: And what was the total of the -- do you
21 have a figure for the total fees charged in these increments,
22 in the half-hour increments?

23 MS. STADLER: The total was \$152,617.50.

24 THE COURT: Is that the total for just those billing
25 entries that were in the half-hour increments?

1 MS. STADLER: No. That's that timekeeper's entire --

2 THE COURT: Okay. Did your system filter how much he
3 charged on entries that were in half-hour increments?

4 MS. STADLER: It can filter, but we didn't do that for
5 preparing this exhibit.

6 THE COURT: Okay. All right. Let me come back to the
7 non-working travel time to New York.

8 What did you identify as the total -- I don't know
9 whether you -- I mean, I found the figure --

10 MS. STADLER: \$282,700.75 was --

11 THE COURT: Give me -- I'm sorry. Give me the figure
12 again. 282 --

13 MS. STADLER: Well, your question is what was the
14 total travel, and I'm giving you a number that is half that
15 amount.

16 THE COURT: The fifty percent. I know.

17 MS. STADLER: Yes.

18 THE COURT: I know.

19 MS. STADLER: 2 --

20 THE COURT: Because that's what they charged.

21 MS. STADLER: Right. \$282,700.75.

22 THE COURT: Okay. And that reflects travel to New
23 York.

24 MS. STADLER: To or from.

25 THE COURT: Well, the problem with the from is yes, if

1 people are going from New York somewhere else to do work --

2 MS. STADLER: Right.

3 THE COURT: -- the fifty percent for non-working
4 travel applies.

5 MS. STADLER: I think in order to answer --

6 THE COURT: Unless you're saying that it's a Chicago
7 based timekeeper, and the from "New York" is New York to
8 Chicago. He's going home. He or she are going home.

9 MS. STADLER: Right. I will say this. Looking at
10 Exhibit G, a number of these timekeepers I know to be housed in
11 Chicago, and they are listing travel to and from New York.

12 THE COURT: Okay.

13 MS. STADLER: There are some that are listing travel
14 from Dallas to New York, from Boston to New York, from
15 Minneapolis to New York, from Atlanta to New York, from
16 Washington, DC to New York. And I cannot tell you, as I stand
17 here, whether those people are housed in offices there.

18 THE COURT: Okay.

19 MS. STADLER: I think it's mostly the Chicago travel
20 that is the kind that you're looking to identify, but it's
21 unclear to me, without doing some further analysis, which of
22 these trips was getting to New York to work on the case and
23 which was a trip for a purpose like a deposition or a meeting.

24 THE COURT: Okay.

25 MS. STADLER: We can certainly supplement the record

1 with that information.

2 THE COURT: No. Hang on.

3 Okay. Anything else you want to?

4 MS. STADLER: No, Judge.

5 THE COURT: Okay.

6 Mr. Scheler? How much is the holdback for Mesirow?

7 MR. SCHELER: About two million dollars.

8 THE COURT: Okay. So what I have before me is Mesirow
9 seeking a fee award, final fee award of 39,472,705 dollars.

10 MR. SCHELER: Correct.

11 THE COURT: And expenses of 344,747 dollars.

12 MR. SCHELER: Yes, sir.

13 THE COURT: Ms. Stadler, let me ask you another
14 question. With respect to the travel time, did you find any
15 entries suggesting that the Chicago-based professionals, that
16 there are expenses for travel to New York for professionals
17 based in offices outside of New York, either hotel, airfare, et
18 cetera?

19 MS. STADLER: Yes. I believe that the entries in
20 Exhibit G are also accompanied by travel expenses.

21 THE COURT: Okay. Here is what I'm going to do. I'm
22 going to sustain in part and overrule in part the objection of
23 the Trust to the final fee and expense application of Mesirow.
24 I'm going to approve the fee request of 39,472,705 dollars
25 subject to a continued holdback of 500,000 dollars. And I

1 don't know. I think that's overkill, but that's what I'm going
2 to do.

3 And I expect that -- and the expenses, I think, if I
4 didn't say, out of 344,747 dollars -- 344,747 dollars, the
5 500,000-dollar holdback is to cover fees and expenses for the
6 following items, and I expect that Mesirow -- either through
7 you, Mr. Scheler, or otherwise -- will communicate with Mr.
8 Masumoto and Ms. Stadler, and see if you can come to an
9 agreement -- provide the data and come to an agreement with
10 respect to the amount of nonworking travel time for
11 professionals based outside of New York, traveling to or from
12 New York.

13 And likewise, a reduction in expenses for non-New
14 York-based professionals coming to New York, because I've said,
15 in this case at least, I'm happy to have people from other
16 offices come here, but their expenses while here is part of
17 overhead, so that the expense number of 344,747 needs to be
18 reduced by any amount of expenses for professionals from other
19 offices for while they were in New York or their airfare. And
20 the fees need to be reduced by any of the nonworking travel
21 time to or from New York for those professionals.

22 My award of fees and expenses will not be final until
23 that adjustment is made, but the only holdback will be this
24 500,000-dollar figure, which I think should more than
25 adequately --

1 MR. SCHELER: It's very cushioned.

2 THE COURT: -- cover the items we're talking about.

3 And that's not an invitation, Ms. Stadler, to insist
4 that it be a 500,000-dollar adjustment, okay?

5 MS. STADLER: Understood.

6 THE COURT: It just I want to be comfortable that --
7 because I don't have the hard figures --

8 MR. SCHELER: Your Honor, what I will undertake that
9 Mesirow will do, is that we will go back through every one of
10 our charges to determine, with respect to travel to and from
11 New York by our professionals, the aggregate amounts that were
12 included in our fee number, and we will include the aggregate
13 amounts of hotel and related expenses for when those
14 professionals were in New York. And we will submit those
15 schedules as the earliest possible date.

16 THE COURT: Well, see if you could confer with Mr.
17 Masumoto and Ms. Stadler and see if you can reach a resolution
18 of that, and then --

19 MR. SCHELER: What about -- but I --

20 THE COURT: -- and if you can't, you'll inform --

21 MR. SCHELER: Yes, but what I'm saying to --

22 THE COURT: I want to give you a chance to see if you
23 can work this out before you come back to me, okay?

24 MR. SCHELER: But what I'm saying to Your Honor is
25 that whatever we're going to present is going to be absolutely

1 factual.

2 THE COURT: Right.

3 MR. SCHELER: So the only question will be is somehow
4 if they look at the materials we provided, we've missed
5 somebody. But it's going to be factual, and it's going to be
6 consistent with what you've just ruled.

7 THE COURT: Okay, so let me just address -- so that's
8 the travel related.

9 On multiple attendees, I'm going to overrule the
10 Trust's objection. On the staffing issues, higher billing
11 rate, people doing work that arguably could be done by
12 lower-rate people, I'm going to overrule the objection. I'm
13 sensitive to this issue of efficiency. I'm also sensitive to
14 the time constraints that everybody was operating under, and
15 the fact that I think I can do legal research better than my
16 law clerks, even as good as they are, and I don't have a
17 billing rate anymore, but when I did -- so I don't think that
18 the Trust carried its burden on that issue.

19 On the rate increases, I'm unpersuaded by the -- I'm
20 going to overrule the objection. We're talking about the
21 seniority adjustments, and I take -- Mr. Scheler said, well,
22 we're talking about a six-week period, so I don't think the
23 number would be a very big number and I'm not -- whenever I
24 have seen in a fee -- in a retention application, I've seen
25 what associates at different levels or professionals at

1 different levels are billed at; with maturity they move up to a
2 different level. And I think if the U.S. Trustee wants to
3 preclude that from happening, they can require it in the
4 retention order.

5 Okay, with respect to Mr. Wei.

6 Ms. Stadler, you had how many time entries that were
7 in half-hour increments? I think you told me that number.

8 MS. STADLER: There were sought seventy-nine time
9 entries total recorded by this timekeeper.

10 THE COURT: And were six of those that were the four-
11 hour --

12 MS. STADLER: Well, yeah, I don't -- don't hold me to
13 that. Those are eyeballing. Six or eight.

14 MR. SCHELER: There are six entries, which are located
15 in rows 322, 23, 39, 61 and 79. So six of thirty-four entries
16 were travel, so that brings down the --

17 THE COURT: I thought it was seventy-nine entries.

18 MR. SCHELER: The total of seventy-nine.

19 THE COURT: Okay.

20 MS. STADLER: All his --

21 MR. SCHELER: Okay, his -- all of his entries were
22 seventy-nine.

23 THE COURT: Okay.

24 MR. SCHELER: Not all of them were in the --

25 THE COURT: Not all increment -- even half-hours.

1 MR. SCHELER: So there's only thirty-four that were in
2 the half-hour range, and of the thirty-four, six. So you get
3 down to the twenty-eight of those entries.

4 THE COURT: All right. The objection's overruled.

5 MR. SCHELER: Thank you, Your Honor.

6 THE COURT: I'm not faulting you for flagging the
7 issue, Ms. Stadler.

8 All right, I think that disposes of the Mesirow
9 application. With respect to the adjustments, I'm not sure --
10 I don't think we need to have an in-court hearing. You're in
11 Wisconsin. If you can come to an agreement, put it in the form
12 of a stipulation. If you can't, we'll do a telephone hearing,
13 so you don't have to travel to New York for it. Okay?

14 MR. SCHELER: That'll be fine, Your Honor, thank you.

15 THE COURT: All right, thanks, Mr. Scheler.

16 MR. SCHELER: Thank you.

17 THE COURT: We still have Morrison Cohen.

18 MR. SEIFE: Your Honor, yes, and we still have the
19 examiner's final application.

20 THE COURT: Oh, there were no objections. It's
21 approved.

22 MR. SEIFE: Would you like me to put the amount on the
23 record, Your Honor?

24 THE COURT: Sure, why don't you do that?

25 MR. SEIFE: Howard Seife, Chadbourne & Parke. The

1 examiner, Arthur J. Gonzalez, final fee request is \$568,612.50,
2 and no expenses.

3 THE COURT: Right. And that is approved.

4 MR. SEIFE: Thank you, Your Honor.

5 THE COURT: Okay. All right. Morrison Cohen.

6 MR. DAKIS: Last, but certainly not least, Your Honor,
7 Morrison Cohen is here seeking final fees --

8 THE COURT: Tell me -- you have to make your
9 appearance.

10 MR. DAKIS: Oh, sorry, apologies, Your Honor. Robert
11 Dakis from Morrison Cohen.

12 THE COURT: Tell -- your last name again?

13 MR. DAKIS: Dakis, D-A-K-I-S.

14 THE COURT: Thanks, go ahead.

15 MR. DAKIS: Your Honor, Morrison Cohen filed a final
16 fee application seeking \$4,212,750.50. Morrison Cohen has
17 agreed to a reduction with the U.S. Trustee of \$17,524.08. And
18 in response to concerns raised by the Trust in the Trust's
19 objection, we've agreed to an additional reduction of
20 \$33,709.50, bringing our total fee request to \$4,163,466.92. I
21 think that's slightly lower than what's on the chart before
22 Your Honor. I think the chart doesn't reflect the additional
23 30,000 dollars we took in our response to the Trust's
24 objection.

25 Much of what I was prepared to say here today has been

1 covered both by the Court and by other professionals who have
2 stood up and spoke, and so I'll limit my remarks, but there is
3 a word that came up that Judge Gonzalez raised, and I think a
4 good lawyer listens to the judge, and listens to former judges
5 when they speak. And the word is "amnesia". And I think
6 that's an appropriate word to describe the Trust's objection to
7 Morrison Cohen's fee applications.

8 The Trust's objection is predicated on a central focus
9 that the independent directors in the case weren't very
10 important, and therefore weren't entitled to the level of
11 representation they were receiving. And I believe that that
12 central premise is, simply put, faulty, flawed and just wrong.
13 Your Honor, as the Court recognized and as the parties
14 recognized, the independent directors ran the company as -- the
15 time the case filed. The independent directors were a majority
16 of the board; the independent directors negotiated the initial
17 settlement with Ally Bank.

18 That initial settlement, while raised through the
19 mediation process that the independent directors participated
20 in, also led to certain noncash compensation, including a DIP,
21 the use of cash collateral, the shared servicing agreement, and
22 all of the various agreements between Ally and the debtors that
23 permitted the debtors to continue to operate through their
24 Chapter 11, to continue to originate mortgages until the time
25 of the sale. And the sale itself was overseen by the

1 independent directors.

2 The climate of this case at the outset was one of
3 acrimony. The creditors' committee and other constituents in
4 the case challenged, at every point, the actions of the debtors
5 and the debtors' management. Central to that challenge was the
6 relationship between the debtors' board and Ally Bank. And as
7 such, in the middle of all of this disputes, was a group of
8 independent directors who had no ties to Ally, who were trying
9 to make decisions in the best interest of the estate, and for
10 the most part, apparently succeeded.

11 And it's those decisions that led to ultimately the --
12 the results of this case, led to the appointment of Lew Kruger
13 as CRO. It led to the plan mediation process. And ultimately,
14 it led to the independent directors agreeing to give up 150
15 million dollars of their own insurance in order for Ally to up
16 their contribution, which became the final piece of the
17 settlement puzzle.

18 Throughout that process, the independent directors
19 looked to their independent counsel for advice, and it was a
20 necessity that their independent counsel be involved in every
21 feature of this case in order for them to ultimately make a
22 decision and assist their clients in deciding to give up their
23 rights to indemnification from Ally and their right to
24 insurance. It would have been malpractice for a firm to sit
25 back and say, yes, give up insurance, give up indemnification,

1 without being fully versed in where the case was and where the
2 case was going.

3 In addition, the creditors' committee had raised --
4 brought a 2004 application that sought document discovery.
5 That document discovery necessarily looked to documents in the
6 hands of the independent directors. In addition, the
7 independent directors were called as witnesses in the RMBS
8 trial, and so the independent directors would have been part of
9 the RMBS trial, had that gone forward, had the case ultimately
10 not settled.

11 So ultimately, the independent directors looked to
12 their counsel to take a more active role in this case than
13 perhaps the Trust would have liked, but it is not a role that
14 was unnecessary given the acrimony, given the tenor of this
15 case, and given, ultimately, how the case was resolved.

16 Now, in response to the Trust's objections, Morrison
17 Cohen has agreed to take certain reductions. In particular,
18 Your Honor, Morrison Cohen has agreed to take a 513-dollar
19 reduction for duplicate time entries. Through our review of
20 the actual bills that were filed, we did locate two duplicate
21 time entries, and we have decided to write them off. In
22 addition, Morrison Cohen inadvertently raised rates of certain
23 para --

24 THE COURT: .9 hours by Michael Connolly on November
25 11th, 2013.

1 MR. DAKIS: Yes, Your Honor.

2 In addition, Your Honor, we located 17,000 dollar --
3 17,190 dollars of rate increases in paraprofessional time.
4 That was inadvertent. It was done through a coding error, and
5 we are agreeing to write those charges off.

6 The Trust has identified 2,279 dollars of billing
7 activities that were done by a paralegal in the early stages of
8 the case. We have agreed to write that time off.

9 Transient time, which the Court and the U.S. Trustee
10 has looked at with respect to Morrison Cohen, is an interesting
11 thing. We had certain lawyers who were involved in the very
12 pre-petition transactions that the examiners were looking at
13 that were the subject of the inquiry by the creditors'
14 committee and by other parties in the case. And so Morrison
15 Cohen had the unique benefit of at times being able to walk
16 down to the lawyer who wrote the board resolution at issue or
17 walk down to the lawyer's office who wrote the document at
18 issue, and ask them, hey, what was this about?

19 And so there were two lawyers that were involved in
20 pre-petition representation of the board, David Lerner and
21 Eitan Tabak, both of whom didn't spend a considerable amount of
22 time on the case, but the time they spent was valuable, because
23 it allowed us to get to historical information about the
24 debtors quickly. One lawyer we staffed, a junior associate, on
25 a document review project; that was 2,695 dollars of time.

1 We've agreed to write that off.

2 THE COURT: Sometimes when you -- the people who are
3 working on the case need to get some information about
4 historical information, they pick up the phone; they call the
5 lawyer who worked on it. He tells them, oh, I wrote that back
6 then, and it doesn't get billed, because it wasn't work in
7 connection with the case. It's just an explanation of what was
8 done that the lawyers currently working on the case needed to
9 know.

10 So not every -- I question whether that's an
11 appropriate charge. It's not a whole lot of money. But I just
12 have a question whether it's an appropriate charge to the case
13 to have a lawyer who's not working on it charge time because he
14 answered a question to somebody who is working on it about
15 something he did -- he or she did -- historically; not because
16 this person is the world's leading tax expert on some
17 subsection of a subsection of a code and the best way to get an
18 answer is call the -- because you have that issue, call the tax
19 lawyer who deals with the issue. That's not the same -- and
20 ask for legal input; not, there's this resolution I think you
21 worked on. Tell me what it means or why was it done?

22 MR. DAKIS: I certainly can understand the Court's
23 concern with that. And that was minimized by the ability to
24 staff the people who actually worked on the case -- for the
25 most part on the case. And so Michael Connolly, who had the

1 most historic knowledge of the debtors, actually worked on the
2 case, so we didn't run into these types of issues.

3 But with one lawyer in particular, David Lerner, who
4 spent the most -- who is the bulk of the challenged transitory
5 time, David Lerner was intimately involved with the debtors'
6 pre-petition activities. And he also provided guidance
7 post-petition on corporate governance issues. And so it was
8 good to be able to speak to somebody who was providing how the
9 debtors did a pre-petition, but also being able to turn to us
10 and say, and maybe now this is where we should be trying to
11 steer things. It was essential, especially given that, again,
12 the ultimate resolution here was that the board was going to
13 give up their ability to look to D&O insurance, and to look to
14 indemnification from Ally and the debtors.

15 And so while I certainly appreciate that if we were
16 just picking up the phone and calling somebody and saying, hey,
17 what did we do here and what does that resolution mean? The
18 advice here given by the allegedly transitory timekeeper went
19 to history, and is the history is why we called, but the estate
20 got more than just history from that. We got guidance. And so
21 it was important that we were able to look to Mr. Lerner.

22 The Trust has also identified 6,742 dollars of what
23 the Trust believes are administrative time. In -- the Trust's
24 administrative time category is both time that we will say is
25 administrative for the purposes of trying to reach a

1 resolution. I'm not sure we would concede that it's
2 administrative. But also in that time are entries by our
3 specialists dealing with litigation databases for coding and
4 putting documents into that database.

5 THE COURT: Well, as I understand it, you've agreed to
6 a 6,742-dollar reduction for items that might be considered
7 administrative?

8 MR. DAKIS: Yes, Your Honor. And in that category is
9 also items that are just clearly not administrative.
10 They're -- within that category of administrative costs --

11 THE COURT: Let me see if I can -- what I want to
12 focus on -- what's still in dispute as opposed to what you've
13 agreed -- whether you had to or not, you've agreed to reduce
14 that 6,742 dollars. But what I want to focus on, particularly
15 given that it's a quarter to 3, is what's still in dispute?

16 MR. DAKIS: Certainly, Your Honor. I believe it's
17 three large categories, and the Trust can speak to anything
18 that I miss here. But it's multiple attendees at meetings and
19 court hearings, and internal meetings, I believe, are the two
20 largest.

21 THE COURT: The U.S. Trustee called you on every, I
22 think -- maybe there was one interim period where it didn't
23 arise. The second interim period is the only time that Mr.
24 Masumoto has not reflected the objection about multiple
25 attendees.

1 MR. DAKIS: That's correct, Your Honor.

2 THE COURT: Maybe your firm didn't get the message,
3 because I kept saying at hearings, I'm not going to compensate
4 for multiple attendees, but you just kept sending people.

5 MR. DAKIS: Well, it was -- these were internal
6 meetings, but -- and so the message was somewhat mixed as to
7 whether or not, and how many lawyers could be staffed at
8 internal meetings, but we got the message ultimately, Your
9 Honor. And we went back through our time and the final fee
10 application reflects a reduction even for those periods where
11 the U.S. Trustee didn't ask for it. So we went back to the
12 second period --

13 THE COURT: The U.S. Trustee's even objected in the
14 fifth interim period for multiple attendees.

15 MR. DAKIS: It was -- at that time, Your Honor, it was
16 a paralegal who came down to court for a day, and we missed it,
17 and just didn't write off the time, and once the U.S. Trustee
18 brought it to our attention, we wrote the time off. But that
19 wasn't the same level of staffing that had raised the
20 objections beforehand. We had wrote down all the time for
21 anybody above -- I believe it's three timekeepers -- at every
22 internal meeting going back to the outset of the case, so that
23 we insured that the U.S. Trustee and this Court's guidance was
24 covered.

25 THE COURT: Okay.

1 MR. DAKIS: Similarly, with respect to hearings.

2 THE COURT: That included internal meetings, not just
3 court hearings?

4 MR. DAKIS: Absolutely.

5 THE COURT: Okay.

6 MR. DAKIS: Court hearings, what we -- we tried to
7 mainly staff court hearings as best as we could, and brought
8 only those lawyers that were necessary. Morrison Cohen uses an
9 interdisciplinary approach, as I'm sure every law firm tells
10 you they do, but Morrison Cohen --

11 THE COURT: Considering you didn't have any speaking
12 role in court; you just had a lot of observers sitting around.

13 MR. DAKIS: Mr. Moldovan had to speak, I think, a
14 couple of times.

15 THE COURT: There are transcripts that you can --
16 somebody can get, but I'm always happy to have people in the
17 courtroom.

18 MR. DAKIS: Thank you, Your Honor. It -- at times,
19 given the speed in which the case was moving and the number of
20 board meetings, and the information that was being flowed to
21 the board, waiting for a transcript to come out and reading a
22 transcript was -- would have been less efficient then simply
23 having somebody listen to the hearing. And given that some of
24 the hearings dealt with discovery issues that directly impacted
25 the independent directors, it was prudent to send attorneys

1 down to court.

2 THE COURT: What other categories do you still have
3 issues with?

4 MR. DAKIS: It's internal meetings and multiple
5 attendees. Oh, and there's one other one, Your Honor,
6 regarding research. Morrison Cohen, at the request of the
7 independent directors, performed research on a particular
8 topic. The topic was equitable subordination.

9 The research was performed at a time before the
10 settlement was done, and the purpose of the research was the
11 independent directors were looking to where their levers were
12 ultimately going to be, to the extent that the then pending
13 mediation wasn't successful. The independent directors were
14 still looking to try to get this ultimately to a plan, and
15 ultimately to hopefully a confirmation hearing.

16 And as part of that, the independent directors felt
17 that they were the parties that were the most -- that were in
18 the best position, given the overlay between Ally and --

19 THE COURT: Who --

20 MR. DAKIS: -- the debtors themselves.

21 THE COURT: Who were trying to equitably subordinate?

22 MR. SEIFE: We were looking at the Ally claims, Your
23 Honor. And so the question was whether or not we had any
24 leverage against the parent, and it was the pre-petition
25 special committee of independent directors who was tasked

1 directly with examining the Ally claims that ultimately led to
2 the pre-petition settlement.

3 So in furtherance of that responsibility, they asked
4 their counsel to look at equitable subordination of the Ally
5 claims to determine, in the event that there wasn't going to be
6 a settlement, whether or not there was a lever there that they
7 could use, and ultimately the case settled. And once the
8 settlement was announced and was finalized in May, we stopped
9 the research immediately.

10 THE COURT: All right. Any other issues that you're
11 still disagreeing about?

12 MR. DAKIS: None that come to mind, but I'm sure the
13 Trust will remind us of anything.

14 THE COURT: Okay, let me hear from Ms. Stadler. Thank
15 you very much.

16 MR. DAKIS: Thank you.

17 MS. STADLER: Thank you, Judge. Morrison Cohen is not
18 an examiner's professional. And whatever may be said about the
19 unique circumstances of an examiner under Chapter 11, the same
20 cannot typically be said for independent directors of a debtor.
21 The debtor and its board of directors, including the
22 independent directors, were represented in these cases by a
23 long list of professionals that have been granted final fee
24 applications today.

25 THE COURT: Look, there was -- from day one of this

1 case, the major issues arose from intercompany transactions
2 with the nondebtor ultimate parent, Ally Financial. From day
3 one of this case, when there was a proposed pre-petition plan
4 support agreement, opposed from day one by -- well, it wasn't
5 day one; there wasn't a creditors' committee on day one -- but
6 from the appointment of the creditors' committee on, that
7 agreement was opposed. And it does seem to me that Mr. Dakis
8 is right; that the independent directors of Residential Capital
9 had very direct and strong interests in what are the
10 responsibilities of directors of a debtor. This is long before
11 Mr. Kruger was appointed as the CRO, and he didn't totally
12 supplant the directors, but he had an important role.

13 You're not getting much traction from me on the
14 research issue. I mean, you put in the declaration of --
15 what's his name?

16 MS. STADLER: John Dubel?

17 THE COURT: Yes, John Dubel, who testified in my
18 courtroom. He was a very impressive witness. And -- but he
19 was a member of the creditors' committee. He wasn't part of
20 the debtors' management. He wasn't a director of the debtor.
21 He had a very different stake. He was the head of FGIC at the
22 time, and negotiated the settlement with the debtors and the
23 dispute with FGIC. And impressive guy, experienced, but with a
24 very different interest in the case than the independent
25 directors of ResCap.

1 And so I have a hard time having you or Mr. Dubel
2 substitute your judgment for the judgment of Morrison Cohen and
3 the independent directors about what the appropriate -- what
4 should have been -- what should the lawyers for those
5 independent directors do in connection with the case.

6 Equitable subordination, for a time, looked like it
7 was going to be a big issue in this case. And Mr. Dakis'
8 explanation of why they were looking at it, from the standpoint
9 of -- because Ally had a big claim -- it makes sense to me.
10 Tell me why that doesn't make sense?

11 MS. STADLER: Well, I will push back a little bit on
12 this one, just because, Judge, you shared with us your anger on
13 some of the issues that these applications raised, and this
14 application is one that really raises anger on the part of the
15 Trust, because of the -- there is absolutely no dispute that
16 the independent directors themselves played an important role
17 in this case. And their involvement in the negotiation of the
18 pre-petition plan support agreement and all of the issues that
19 arose out of that, including the examiner's investigation, was
20 a narrow issue where their interests diverged from that of the
21 company.

22 But in most other respects -- and this is the point of
23 the Dubel declaration -- as a participant in this case and
24 other restructurings, in most respects, the independent
25 directors' interests are adequately protected by the debtors'

1 counsel, and I think the Ally subordination research is a
2 perfect example of that. Why did Morrison Cohen need to spend
3 90,000 dollars researching equitable subordination, which was a
4 huge issue in the case for the debtor and everyone else? We
5 didn't review -- I personally did not look at Morrison &
6 Foerster's application, but I suspect if we did, you would see
7 there was research going on on behalf of the debtor on that
8 issue.

9 And the issue that the Trust takes with the Morrison
10 Cohen participation has nothing to do with the independent
11 directors themselves and their role. It has to do with their
12 need to be separately represented, separate and apart from the
13 company and the board of directors and the CRO --

14 THE COURT: Well, there wasn't --

15 MS. STADLER: -- on issues --

16 THE COURT: There wasn't a CRO at the start of the
17 case.

18 MS. STADLER: Right, but later the CRO. Separate and
19 apart from him on matters of routine Chapter 11 practice. And
20 that is why the exhibits that are key to this discussion are
21 really I and J. Mr. Dakis is incorrect. We don't have
22 meetings and court appearances lumped together. Exhibit I is
23 broken down into many categories, including court attendance.
24 This is things like first-day motions, first-day hearings.

25 THE COURT: It wasn't until a little later in the case

1 that I set out my guideline about how many lawyers in the
2 courtroom were getting --

3 MS. STADLER: Right.

4 THE COURT: -- there would be compensation for. So --

5 MS. STADLER: Attending the JSN trial, confirmation
6 hearing, all of these things; and then we have board meetings.
7 We have two and three Morrison Cohen lawyers sitting in on the
8 call every time the board met. The board, which except for in
9 these narrow issues where the independent directors' interests
10 diverged, was adequately represented by very experienced
11 Chapter 11 counsel. Attendance at the auction -- obviously the
12 examiner meeting and interviews were the area where special
13 attention and separate representation was required. That's
14 29,000 dollars of this entire category.

15 THE COURT: How much was charged for attendance of the
16 JSN trial? Two trials.

17 MS. STADLER: Yeah. I do apologize --

18 THE COURT: That's all right.

19 MS. STADLER: -- this is about a thirty-page exhibit
20 so without a search function, it's going to be a little bit
21 hard. There were three people at various portions of the
22 October 23rd, 2013 JSN trial.

23 THE COURT: That was the Phase I trial?

24 MS. STADLER: There were one, two, three, four, five
25 people at the November 19th trial, which is described by at

1 least one of the timekeepers as the Phase II trial.

2 THE COURT: It was the combined Phase II and
3 confirmation trial.

4 MS. STADLER: And confirmation, right. So there were
5 five people at that one.

6 And the important -- I want to continue briefly --
7 board meetings was the other category in Exhibit I which
8 really, most directors on routine board meetings don't need
9 counsel present, much less --

10 THE COURT: Hard to say any board meeting in here --

11 MS. STADLER: -- separate counsel.

12 THE COURT: -- was routine.

13 MS. STADLER: The auction we talked about, and then
14 the discovery. And then committee meetings and claims
15 meetings, that's the category of objections that's a multiple
16 attendees at outside events, and it amounts to more than
17 300,000 dollars; \$337,991.50 to be exact.

18 I want to make a point, because here's one area where
19 we can clearly say this is not the same objection that the
20 trustee made. The trustee objected to three and up. On most
21 of these categories except the auction, we had -- we allowed
22 one and deducted the second or third participant, and that's
23 where the 337 number comes from. So that is granting them the
24 need to have someone at each and every one of those things, but
25 one person rather than two or three.

1 Now, the next exhibit is Exhibit J. This is the
2 internal meetings, and this, I understand, is a different
3 category. And I agree with you, workflow meetings and making
4 sure that everybody's getting the same information at the same
5 time makes perfect sense in some of these types of engagements.
6 This is another 315,000 dollars in internal conferencing and
7 meeting among these people who were already sitting two, three
8 and four at a time in every proceeding. So it appears a lot
9 less important given the role of the independent directors and
10 their counsel, as independent counsel as opposed to debtors'
11 counsel, that they would need to have such a high level of
12 internal conferencing.

13 So those are the two big nuts, so to speak, on this
14 list. The ones that Mr. Dakis addressed already or that the
15 Trustee has addressed, I think, the vague -- clearly our
16 universe of vague task descriptions is much larger than what
17 the Trustee would have raised or objected to. But again, no
18 way to really determine which deductions were allocated to
19 which vague task. The research we have talked about -- the
20 transient timekeepers, I will just note, because I was
21 following along --

22 THE COURT: Transitory timekeepers.

23 MS. STADLER: Transitory timekeepers. I will just
24 note that one of the things David Lerner billed for -- because
25 we were just talking about this, it struck my eye -- was two

1 hours on one day and an hour -- 1.8 hours on another day to
2 review the examiner's report. I'm not sure how that would
3 relate to his prior experience in corporate governance with the
4 debtor. But with that, I will sit down, as I know everyone's
5 patience is running thin for this process.

6 Thank you.

7 THE COURT: So the examiner's report in a number of
8 places -- I don't have it in front of me -- raised questions
9 about pre-petition transactions, related-party transactions
10 that this debtor engaged in. And I think -- I'm -- without the
11 report in front of me, never fully resolved what the basis for
12 doing those transactions -- why wasn't counsel for the
13 independent directors who were involved in passing on those
14 transactions, why wasn't it appropriate for -- and some of
15 the -- and they covered -- some of this stuff is in the
16 examiner's report. Why isn't it appropriate for counsel to the
17 independent directors to look and see what the examiner said
18 about pre-petition transactions, related-party transactions as
19 to which independent directors voted?

20 MS. STADLER: These professionals had billed
21 substantially to prepare the witnesses for the examiner
22 interviews and to attend those interviews and in some cases --

23 THE COURT: Let's --

24 MS. STADLER: -- attend trial.

25 THE COURT: Until the plan was confirmed, there was no

1 assurance that the compromises reflected in the second plan
2 support agreement would be confirmed in a plan. And so if
3 everything had blown up the way the JSNs wanted it to, wouldn't
4 the independent directors have faced the risk of breach of
5 fiduciary duty claims in connection with pre-petition
6 transactions they had approved?

7 I mean, the fact that -- I mean, I think it was more
8 than prurient interest that would lead counsel for the
9 independent directors to look at what the examiner included in
10 the report. There's stuff in that report that specifically
11 dealt with related-party transactions pre-petition that were
12 approved by the board, the independent directors. So why isn't
13 it appropriate? I mean, you're complaining about Mr. Lerner
14 spending -- it took me a lot longer than a couple of hours to
15 read all 2,245 pages, but I read it all.

16 MS. STADLER: Fair. That's fair.

17 THE COURT: It's well indexed and you could -- and
18 also if you open it electronically, it is easily searchable.
19 But --

20 MS. STADLER: Right. I think this goes back in
21 general to the basic issue of was counsel limiting its
22 involvement to issues where the board of directors as a whole
23 was not -- had interests that were somehow divergent from these
24 independent directors with their separate counsel. And again,
25 I raise that issue not for any other purpose than to just give

1 a flavor of the types of activities that show up on Exhibit H,
2 because with all of the paper flying around, it's easy to lose
3 sight of these things.

4 I do want to make one more point as a whole in the
5 context of this application. The notion of the fee application
6 processes; certainly, you evaluate the fees for reasonableness
7 and necessity at the time that they were rendered. But the 330
8 analysis is really designed to get at the inquiry of whether
9 professional services provided delivered value to the case,
10 delivered --

11 THE COURT: As of the time --

12 MS. STADLER: -- value to the estate.

13 THE COURT: As of the time the services were
14 performed.

15 MS. STADLER: Correct.

16 THE COURT: So it may be easy for you or for me to say
17 now that that shouldn't have been a real concern of the
18 independent directors or counsel to the independent directors.
19 You know, hindsight makes it much easier. But viewed as of the
20 time that the services were performed, it's not so clear.

21 Well, other issues you want to raise?

22 MS. STADLER: No. I think we've been through them
23 all. Thank you.

24 THE COURT: Okay.

25 Mr. Dakis, you want to respond? When you get to

1 respond, I've got to tell you that there are -- I'm troubled by
2 the size of the Morrison Cohen fees and the -- you didn't
3 represent an active stakeholder in the bankruptcy proceeding,
4 creditors' committee, debtor. Important representation, I
5 don't dispute that, but your firm is seeking, with the
6 adjustments agreed to with the U.S. Trustee, \$4,195,226.42 in
7 fees for representing the independent directors.

8 It's a big number for not representing one of the
9 active stakeholders in the case. And when you drill down into
10 how that number was built up, it's not clear to me why two,
11 three or four people should be compensated for something that
12 one person could have done.

13 I mean, I'm not -- I disagree with Ms. Stadler's -- to
14 some of her arguments; the equitable subordination research, I
15 disagree with her about that. I mean, I viewed -- viewing the
16 case in its entirety, the issues that rose and fell as the case
17 went on; very contentious case early on -- contentious about
18 issues that could potentially impact the independent directors.
19 There was a need -- it was appropriate for them to have
20 independent legal counsel. I don't dispute that. But to me,
21 that doesn't justify three, four or five people at a board
22 meeting or three, four or five people in court or three -- or
23 sitting through the JSN trial. Why did people sit through the
24 JSN trial?

25 MR. DAKIS: Your Honor, the JSN trial became important

1 to the independent directors because, as Your Honor noted, at
2 that time, there was a settlement in place. But if the JSNs
3 were able to blow the settlement up and blow the plan up, it
4 was the board that was going to be sued. I mean, ultimately
5 this entire case --

6 THE COURT: How many people sat through the JSN or
7 appeared -- were present during the JSN trial?

8 MR. DAKIS: During the JSN trial?

9 THE COURT: Yes.

10 MR. DAKIS: It would have been either David Piedra or
11 myself, for most. Mr. Moldovan might have appeared for some of
12 it. There was never more than two until the confirmation
13 hearing.

14 At the confirmation hearing -- on the first day of the
15 confirmation hearing, I believe we had five attorneys. We
16 wrote that down to three. On the second day of the
17 confirmation hearing, we might have had four; we would have
18 wrote that down to three.

19 THE COURT: You weren't -- you didn't represent a
20 party in the JSN trial. There was transcript -- there was
21 daily transcript from the JSN trial.

22 MR. DAKIS: There were also daily board meetings about
23 the JSN trial at the end, Your Honor. We were in constant
24 communication with the independent directors who wanted to
25 know, ultimately, where are we going; are we going to get sued.

1 And to sit back at the end of a trial, at the end of the day,
2 and not be able to turn to the client and say okay, here's what
3 happened, here's where you are, here's where the case is, would
4 have put us at a disadvantage with the client and would have
5 put the very people who were trying to guide the process
6 through -- and ultimately would have been the parties who were
7 in front of Your Honor at whatever breach of fiduciary duty
8 litigation would have been started at the time of the process
9 stopped, had it not been successful -- would have put them at a
10 disadvantage as to exactly where they stood.

11 I concede, Your Honor, that in a normal case, and what
12 is a normal case in Chapter 11 -- I think we've all yet to see
13 every case's nuance. But in other cases, it certainly might
14 not be as appropriate to have independent counsel to the
15 independent directors of the board be as involved as Morrison
16 Cohen was. But from day one of this case, it was the judgment
17 of these board -- of these directors, of the independent
18 directors that was called into question. It was the
19 independent directors who negotiated the deals with Ally.
20 Their judgment was assailed from the second that a creditors'
21 committee came in.

22 It was the independent directors who approved the
23 various pre-petition transactions that were the very subject of
24 the examiner's report that was called into question.

25 THE COURT: Many of which the examiner concluded had a

1 high probability of success.

2 MR. DAKIS: Yes. And -- well, I'm not so sure that
3 the examiner concluded that many of them had a high probability
4 of success, but --

5 THE COURT: It didn't take that many, you know. They
6 were big-dollar items.

7 MR. DAKIS: But the point stands, Your Honor, that
8 these are the parties that, while they were not a direct
9 economic stakeholder, they were a stakeholder in this case more
10 so than independent directors might have been in other cases.
11 In this case, it was --

12 THE COURT: Okay, stop.

13 MR. DAKIS: -- about the independent directors.

14 THE COURT: I'm going to take this one under
15 submission. I'm going to enter an order with respect to the
16 amount of the fees that are going to be -- fees and expenses
17 that are going to be approved for Morrison Cohen. I want to go
18 back and look at some of the underlying billing records in the
19 exhibits attached to Ms. Stadler's objection. I'm not writing
20 an opinion on it; I'm going to enter an order.

21 With respect to all of the professionals whose fees I
22 approved today -- I didn't necessarily say it at the time when
23 I was resolving the objections that the trust raised. Ms.
24 Stadler had used this term earlier about using the holistic
25 approach, and I've tried to do that. I've looked at the

1 entire -- I've lived through this case. I've lived through
2 what the issues were at various times. I've lived through each
3 of the -- more than live through; I've reviewed the fee
4 applications. I looked to the U.S. Trustee for its view on it.

5 The amount of fees being sought by Morrison Cohen for
6 representation of the independent directors is a very large
7 number for the role it had in this case. I don't doubt the
8 importance of the work that was being done, and I'm not saying
9 I won't approve it in the amounts requested. But I want to go
10 back -- I am going to go back and look at it again. I'm
11 sufficiently concerned about this one. I want to be sure I get
12 it right.

13 So I'm going to take it under submission.

14 MR. DAKIS: Understood, Your Honor. I would just note
15 for the record that in our response to the fee committee's --
16 to the Trust's objection, we provided a counter exhibit that
17 goes through the multiple attendees at hearings and at meetings
18 that explains why each individual timekeeper was at each
19 individual meeting. So to the extent that's useful --

20 THE COURT: All right. Just give me a second. I want
21 to look at one other -- here, I have here --

22 (Pause)

23 THE COURT: All right, thank you.

24 MR. DAKIS: Thank you, Your Honor.

25 MR. MARINUZZI: Your Honor, that's the end of the

1 agenda. Just housekeeping; we have to reach out to Weir &
2 Partners about the 154-dollar expense, and I believe Kramer
3 Levin will reach out to Epiq. Assuming we can get quick
4 responses, we'll include those numbers in the form of order
5 that covers all of the professionals except, I guess, for
6 Morrison Cohen. If we're unable to get a quick response, then
7 I would suggest, Your Honor, if it's okay with chambers, we'd
8 submit an order that covers all of the professionals but Weir,
9 Epiq, and Morrison Cohen, and then we'll try to close the loop
10 on those.

11 THE COURT: What I'm fussing about is such a small
12 number, but it just --

13 MR. MARINUZZI: Understood. Thank you, Your Honor.

14 THE COURT: Okay. Thank you.

15 MR. MARINUZZI: Thank you.

16 THE COURT: We're adjourned.

17 MR. AGRUSA: Hello?

18 THE COURT: Yes.

19 MR. AGRUSA: Yes, I'm sorry, Your Honor. My name is
20 Mike Agrusa and I represent Towers Watson. We were on the
21 agenda. I did not hear anything regarding our --

22 THE COURT: I approved it.

23 MR. AGRUSA: -- fee or our expenses that were
24 requested.

25 THE COURT: I approved it.

1 MR. AGRUSA: I'm sorry. I must not have heard that.

2 Thank you very much.

3 THE COURT: Don't charge anybody for sticking around
4 until now. That got approved fairly early.

5 MR. AGRUSA: Thank you.

6 THE COURT: We're adjourned.

7 (Whereupon these proceedings were concluded at 3:14 PM)

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I N D E X

RULINGS

	Page	Line
Bradley Arant, final fees in the amount of	51	8
\$11,456,954.36 and expenses of \$613,321.35		
are approved.		
Bryan Cave, final fees of \$279,187.50 and	51	17
expense of \$116.60 are approved		
Carpenter Lipps, final fees of \$6,163,315	51	19
and expenses of \$2,609,058.89, is approved		
Centerview Partners, LLC, final fees,	51	23
\$5,700,000 as the fees and \$3,800,000 as the		
transaction fee, expenses of \$67,336.36, are		
approved.		
Curtis Mallet, fees of \$9,847,770.80 and	52	1
expenses of \$53,990.94 (as amended later),		
are approved.		
Deloitte, fees of \$5,497,620.65 are	52	3
approved.		
Dorsey Whitney, fees of \$812,063.65 and	52	5
expenses of \$5,480.03, are approved.		
Ernst & Young, fees of \$1,884,808.75 and	52	7
expenses of \$43,230.48, are approved		

RULINGS

	Page	Line
Fortace, LLC, fees in the amount of	52	9
\$2,222,459.50 and expenses of \$659,745.97,		
are approved.		
FTI Consulting, Inc., fees of \$32,364,884.11	52	11
and expenses of \$908,878.43, are approved.		
Hudson Cook, fees of \$2,284,737.50 and	52	13
expenses of \$30,550.67, are approved.		
KPMG, LLP, fees in the amount of	52	15
\$1,791,439.65 and expenses of \$102,515.04,		
are approved.		
Kurtzman Carson Consultants, LLC, final fees	52	17
of \$212,440.50 are approved.		
Locke Lord, LLP, fees of \$1,222,388.78 and	52	19
expenses of \$22,716.90, are approved.		
Mercer (US) Inc., fees of \$311,434.94 and	52	21
expenses of \$44,731.65, are approved.		
Morrison & Foerster, LLP, fees of	52	24
\$95,457,127.80 and expenses of		
\$3,043,012.82, are approved.		
Orrick, Herrington & Sutcliffe, LLP, fees	53	1
In the amount of \$1,833,156.19 and expenses		
of \$4,749.95 are approved.		

RULINGS

	Page	Line
Pepper Hamilton, LLP, fees of \$5,295,708.50	53	3
and expenses of \$124,924.14 are approved.		
Prince Lobel Tye, LLP, fees in the amount	53	6
of \$222,328 and expenses of \$29,451.34, are		
approved.		
Rubenstein Associates, Inc., fees of \$38,276	53	8
and expenses of \$9,920.93, are approved.		
Severson & Werson, P.C., fees of	53	10
\$3,321,340.39 and expenses of \$295,040.35,		
are approved.		
Tilghman & Co., P.C., fees of \$11,507.50 and	53	12
expenses of \$29,046.14, are approved.		
Towers Watson Delaware, Inc., fees of	53	14
\$175,665.92 and expenses of \$9,550.01, are		
approved.		
Troutman Sanders, LLP, fees of \$1,043,948.96	53	16
and expenses of \$16,823.37, are approved.		
AlixPartners LLP, fees in the amount of	53	20
\$14,718,273.53 and expenses of \$103,325.70,		
are approved.		
Analytic Focus, LLC, fees of \$592,840.25	53	22
and expenses of \$355.29, are approved.		

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RULINGS

	Page	Line
Coherent Economics, LLC, fees in the amount	53	25
of \$1,135,367.52 and expenses in the amount		
of \$15,194.52, are approved.		
J.F. Morrow, fees in the amount of \$250,060	54	5
and expenses of \$1,345.61, are approved		
Kramer Levin fees in the amount of	54	7
\$64,366,016.25 and expenses in the amount of		
\$2,416,309.04, are approved.		
Moelis & Co., LLC, fees in the amount of	54	20
\$14,616,129.03 and expenses in the amount of		
\$249,664.42, are approved.		
Pachulski Stang Ziehl & Jones, LLP, fees in	54	23
the amount of \$4,843,989.47 and expenses in		
the amount of \$87,794.29, are approved.		
Quest Turnaround Advisors, LLC, fees in the	55	1
amount of \$345,646.12 and expenses in the		
amount of \$17,614.09, are approved.		
San Marino Business Partners, LLC, fees in	55	4
the amount of \$263,157.38 and expenses of		
\$11,404.30, are approved.		

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RULINGS

	Page	Line
Leonard, Street and Deinard, Professional Association, fees in the amount of \$100,000 and expenses in the amount of \$4,210, are approved.	55	12
Wolf Haldenstein Adler Freeman & Herz, LLP, fees in the amount of \$82,997.85 and expenses of \$1,670.56, are approved.	55	16
Curtis, Mallet fee application approved in the amount of \$9,847,770.80, and expenses of \$53,990.94.	58	17
Perkins Coie fee application approved with Reduction of \$3,802.31 from the \$1,462,384.21 requested.	62	3
Weir & Partners fees approved in amount of 2,349 dollars. Expense request should be resubmitted with more detail.	62	20
SilvermanAcampora fee application approved with a reduction of 340 dollars.	64	22
Wilmer Cutler fee application approved in amount of \$828,680.50 fees, expenses of \$3,713.58.	67	3

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RULINGS

	Page	Line
Fee application for Carter Ledyard & Milburn LLP approved as reduced on the record.	75	10
Trust's objections to Chadbourne fee application overruled.	120	9
Chadbourne application for fees and expenses granted with reductions: \$46,799,750.66 for fees and \$2,995,419.47 for expenses Mesirow's final fee application is granted in part and denied in part Mesirow's fee request of 39,472,705 dollars approved subject to a continued holdback of 500,000 dollars	122	13
Examiner's final application is approved.	156	21
	161	20

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C E R T I F I C A T I O N

I, Penina Wolicki, certify that the foregoing transcript is a true and accurate record of the proceedings.

Penina Wolicki

PENINA WOLICKI

AAERT Certified Electronic Transcriber CET**D-569

eScribers

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New York, NY 10040

Date: June 19, 2014